

THE  
LABOUR LAWS  
OF  
NEW ZEALAND.

(Brought end to the Session of 1908.)

COMPILED BY DIRECTION OF  
THE MINISTER OF LABOUR (THE HON. A. W. HOGG).

1ST. EDITION.



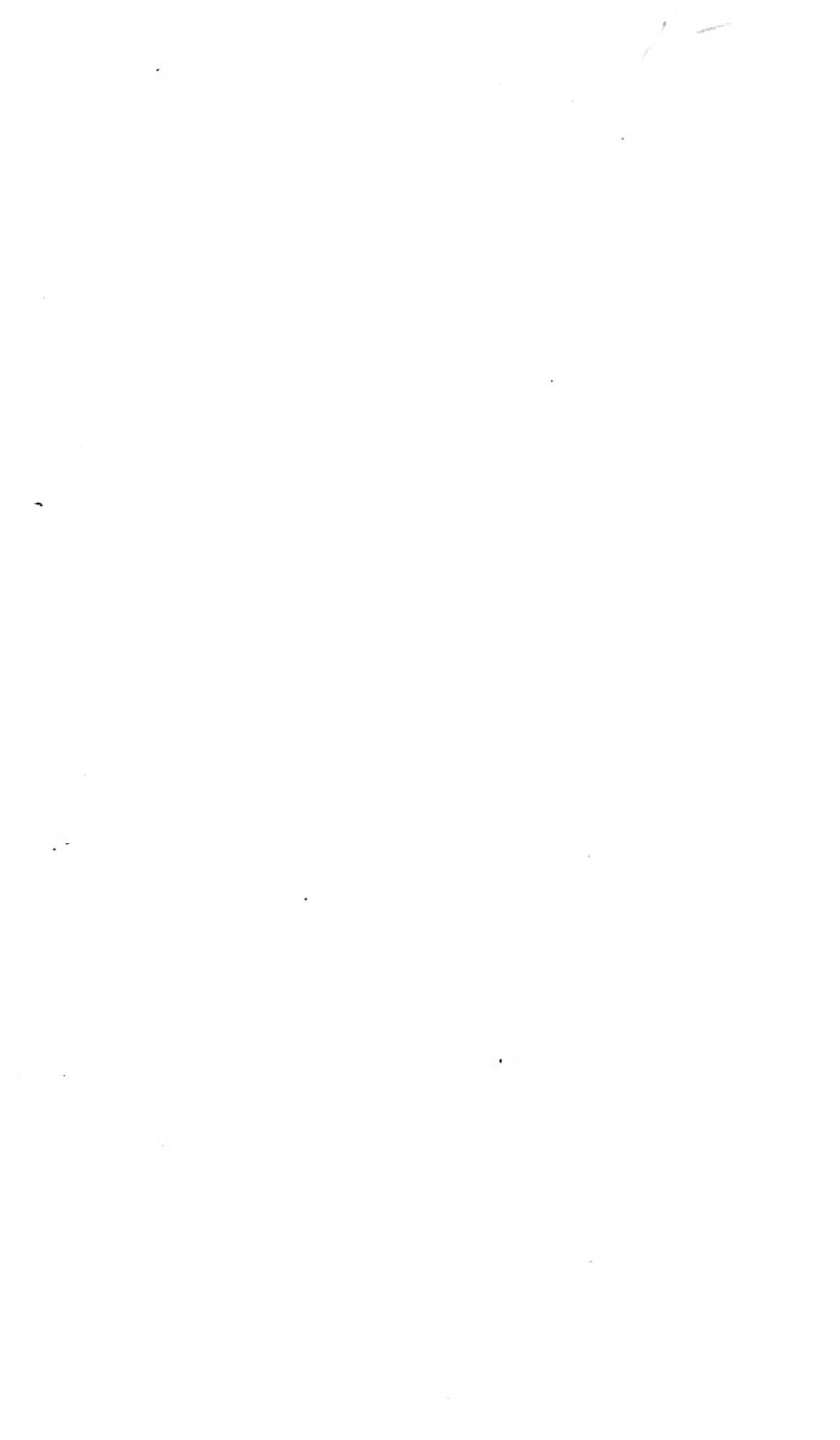
WELLINGTON  
BY AUTHORITY JOHN MACKAY, GOVERNMENT PRINTER.

1909.



THE LIBRARY  
OF  
THE UNIVERSITY  
OF CALIFORNIA  
LOS ANGELES







THE  
LABOUR LAWS  
OF  
NEW ZEALAND.

*(Brought up to the end of the Session of 1908.)*

COMPILED BY DIRECTION OF  
THE MINISTER OF LABOUR (THE HON. A. W. HOGG).

*FIFTH EDITION.*



WELLINGTON.  
BY AUTHORITY: JOHN MACKAY, GOVERNMENT PRINTER.  
—  
1909.

# CONTENTS.

						Page.
PREFACE	..	..	..	..	..	iii
LIST OF ACTS	..	..	..	..	..	x
ANALYSIS OF ACTS	..	..	..	..	..	xii
ACTS	..	..	..	..	..	1
REGULATIONS	..	..	..	..	..	515

## PREFACE.

---

THERE has been such extensive inquiry for copies of "The Labour Laws of New Zealand" that previous editions have soon run out of print, and, as amending statutes appear every session of Parliament, the work has, every two or three years, to be issued under the new conditions, and brought up to date. For these reasons the Fifth Edition is herewith published.

Probably the most important of the labour laws is the Industrial Conciliation and Arbitration Act. It was first passed in 1894, but since that date it has been amended almost every year as new difficulties arose and had to be grappled with. The Act, comprising one of the statutes consolidated in 1908, now stands as "The Industrial Conciliation and Arbitration Act, 1908," with amending Act of the same year, entitled "The Industrial Conciliation and Arbitration Amendment Act, 1908," to be read with the principal Act. The Act has been so widely debated, not only in the colonies, but all over the world, that its general principle need not be explained, and we can briefly notice the machinery used in carrying out its intention. Societies consisting of three or more employers, or of fifteen or more workers, may now be registered and become subject to the provisions of the Act under the title of "industrial union." Two or more of these unions may amalgamate, or they may form an industrial association for the sake of solidarity. Conciliation Commissioners are appointed by the Government, and to these Commissioners industrial disputes are to be referred, with power to call together a local Council of Conciliation. This Council consists of a number of experts in the trade concerned, such number being representative of employers and workers—one, two, or three on each side. If the proceedings before the Council do not terminate the dispute, it is automatically referred to the Arbitration Court. This Court consists of a Judge invested with the power and status of a Judge of the Supreme Court, sitting with two members, one appointed on the recommendation of the employers' unions, and one on that of the workers' unions. The Court has exceedingly wide powers in industrial matters, and against its decisions there is no appeal. The provisions of awards, industrial agreements, &c., are intrusted to Inspectors of Factories (who are also Inspectors

of Awards) to see that such awards are adhered to ; in case of breach, prosecutions follow. The statute was considerably amended in the form of its constitution by the amending Act of 1908 ; the sections dealing with strikes and lockouts were made decisive and comparatively clear.

“The Factories Act, 1908,” is another consolidation of former legislation. The Acts passed prior to 1901 dealt almost exclusively with the protection of working women and girls and boys ; but the existing law takes cognisance also of the working-hours of men, and arranges for due payment of overtime work. The forty-five-hour week, with restricted overtime, which must be paid for, is insisted on for women and boys, except in woollen-mills, where forty-eight hours are allowed ; and if men are employed over forty-eight hours in one week, overtime must be paid. The wages of young persons, the statutory holidays (with payment therefor), the regulated hours of overtime, the sanitation and hygiene of factories, provision of fire-escapes, drinking-water, &c., are all carefully arranged for under this Act. The statutory half-holiday is fixed for Saturday, but may be altered to the day observed for shops on a poll of the electors of any local district. “Sweating” has almost disappeared in New Zealand through the restriction of subcontracts in the issue of textiles to be made up into garments. The Factories Act is probably one of the most complete and perfect laws to be found in the statute-book of any country, and is greatly appreciated by the workers, while the honest fair-dealing employer is himself protected thereby from the unscrupulous proceedings of the piratical competitor.

NOTE.—Any establishment wherein two or more persons work to produce articles intended for sale is a factory in New Zealand. All bakehouses, all laundries, all places wherein Asiatics are employed, and where machinery is used, are also factories, even if only one person is employed therein. This low limit is made mainly for the purpose of inspection, in order that the public should not be injured by tainted food or by clothing manufactured in filthy surroundings.

“The Shops and Offices Act, 1908,” is the consolidation of “The Shops and Offices Act, 1904,” with the amending Acts of 1905 and 1907. It is the result of legislative growth on “The Shops and Shop-assistants Act, 1894.” The Act regulates the hours of assistants in shops, not allowing them to exceed fifty-two hours a week or more than nine hours a day, with the exception of eleven hours on one day

in the week, and overtime under warrant from the Inspector: overtime to be paid for. The shops are to be kept clean and well ventilated; certain sanitary conditions must be observed when persons of different sexes are employed in the same establishment. A weekly half-holiday is compulsory, the day to be chosen in each local district by the local authority, except where it is fixed by a poll of the electors. Compulsory closing of shops at any hour on other days is not insisted on unless under certain conditions whereby each trade in any district is allowed to settle its closing-hour by a majority vote, or closing of all shops may be effected by a majority vote of all shopkeepers. To all young persons wages of 5s. a week must be paid as a minimum, with an annual increase of 3s. per week until twenty years of age be reached. Overtime has to be paid for in both shops and offices, but some establishments, such as banks and shipping offices, are exempt. The hours of work in shops are subject to awards of the Arbitration Court. All assistants employed in hotels have a half-holiday on some working-day in each week.

The Employers' Liability Acts, which were designed to protect workers from accident arising through negligence, &c., on the part of employers or their agents, were repealed by "The Workers' Compensation Act, 1908." It had been found that little practical advantage accrued to injured workers or their families under the Liability Acts, as most industrial accidents have nothing to do with negligence or shortcomings of employers; such accidents are the outcome of risks incidental to every branch of enterprise and manufacture. The Workers' Compensation Act does not imply a fault on the part of any individual; it only attempts to secure compensation for injury or death, so that the hardships necessarily ensuing in case of severe injury to a poor person may be minimised to the sufferer, and (in case of his death) to the family through the loss or disablement of the breadwinner. By means of the Workers' Compensation Act, the burden of industrial accident is borne by the profits of the business in which the accident occurred. To meet the difficulty of too great expense falling suddenly on an employer through his having to pay large compensation for accident, provision is made by "The Government Accident Insurance Act, 1908," and by a State Department which insures employers against the risk of having to pay compensation for accident. There are also several private insurance companies in the colonies which undertake these risks, and are regulated in some degree by "The

Accident Insurance Companies Act, 1908.” The Workers’ Compensation Act allows compensation up to £500 in case of death, or of total incapacity through accident; but the Second Schedule of the Act enumerates the ratio of compensation for certain injuries in comparison with total incapacity: thus, “Total loss of a leg, 75 per cent.: total loss of forefinger of the right hand, 20 per cent.” &c. “Contracting out” is permitted—that is to say, another scheme of compensation may be substituted for those in the Act if it has been approved of by the Arbitration Court: “The Deaths by Accident Compensation Act, 1908,” and “The Judicature Act, 1908,” also bear on this subject.

“The Wages Protection and Contractors’ Liens Act, 1908,” is a consolidation of statutes previously known as “The Truck Act, 1891”: “The Contractors and Workmen’s Lien Act, 1892”: “The Workmen’s Wages Act, 1893”: “The Threshing-machine Owners’ Lien Act, 1895”: “The Wages Attachment Act, 1895”: and “The Wages Protection Act, 1899.” The consolidated Act guards the interest of workers in the following directions:—

- (1.) It insures the payment of weekly wages unless there is a written agreement to the contrary.
- (2.) It permits attachment of moneys in hands of employers when wages are in arrears.
- (3.) It prohibits attachment of a worker’s wages except in the case of any surplus exceeding £2 per week.

(This, however, has been affected by section 20 of “The Industrial Conciliation and Arbitration Amendment Act, 1908,” in which the surplus above £1 per week in the case of unmarried men may be attached by judgment in the Magistrate’s Court.)

- (4.) It prohibits payments for wages being made in goods (truck) or in any other way than in money or by approved cheque.
- (5.) It entitles a contractor, or subcontractor, or worker to a lien on the lands or chattels of his employer upon giving due notice, and the employer must then retain in his hands sufficient of the contract-moneys to satisfy and guarantee payment of the claimant’s dues.
- (6.) If the cost of threshing a crop is not paid to the workers employed in threshing it, the cost of threshing can be made a charge on the proceeds of the realisation of such crop.



(7.) No deduction from workers' wages may be made for purposes of insurance against compensation for accident.

Liens to be imposed as security for miners' wages or earnings are dealt with under "The Mining Act, 1908" (extracts from), and "The Coal-mines Act, 1908" (extracts from).

"The Public Contracts and Local Bodies' Contractors Act, 1908" (extracts from), provides that in every contract let by a public body, such as His Majesty's Government, an Education Board, Harbour Board, municipality, &c., the contractor must observe such length for the working-day, and pay such rates to his employees for wages, overtime, holidays, &c., as are generally considered usual and fair in that locality, or as fixed by the Court of Arbitration for the industrial district, whether the contractor is or is not a party to the award.

Priority of payment for wages or salaries in preference to other debts is insured by "The Companies Act, 1908," in the event of the winding-up of a company.

No wages or payments of any kind may be made to workers in a publichouse or other premises licensed for the sale of alcoholic liquors; penalties are provided under "The Licensing Act, 1908," for any such payment.

"The Kauri-gum Industry Act, 1908," regulates the conditions under which the fossil gum of the giant kauri-pine is dug and disposed of for sale. It specifies the different classes of settlers who may obtain licenses for digging gum, the varieties of licenses to sell and dig gum, and the particular lands on which the right to dig gum may be exercised.

"The Shearers' and Agricultural Labourers' Accommodation Act, 1908," entails on Inspectors the duty of inspecting shearing-sheds and homesteads on farms, runs, and stations throughout the Dominion. Proper sleeping accommodation, ventilation, and sanitation must be provided both for the wandering workmen utilised during the early summer as shearers, and for the fixed farm-assistants who need wholesome dwellings the whole year round. If no provision is made, or if the accommodation is insufficient, formal notice has to be served on the owner or occupier in regard to the improvements to be effected, and, if the notice is disregarded or not fully complied with, the offender can be brought before a Magistrate and fined.

The licenses of registry offices for domestic or farm servants are regulated by "The Servants' Registry Offices Act, 1908." This Act prevents friendless or uneducated servants from becoming the prey of unscrupulous persons so far as engagements for employment, &c., are concerned. Applicants for licenses as registry-office keepers have to pay a fee to the Government, and to present a certificate of good character. Proper ledgers and account-books, open to inspection, must be provided. Registry-office keepers are not allowed to keep lodginghouses for servants, or have any interest in such houses.

"The Shipping and Seamen Act, 1908," contains all the existing legal provisions affecting the protection of life at sea of both sailors and passengers. The Act regulates the appointment of pilots, ships' officers and engineers, the engagement and discharge of sailors, the ventilation, sanitation, &c., of ships, overloading vessels, and the number of duly rated hands to be engaged in proportion to tonnage. The Act endeavours to prevent injustice to the sailor as to advance-notes or payments in foreign money, and also specifies penalties to be inflicted for desertion, disobedience, &c.

"The Inspection of Machinery Act, 1908," has, as its name implies, the oversight of all machinery, boilers, &c., whether on land or water. It also provides for proper persons being in charge of machinery, &c., and for certificates of engineers and others in charge of engines and boilers.

"The Labour Department and Labour Day Act, 1908," defines the statutory existence of the Labour Department. The duties of that Department are to administer the labour laws, and to furnish information on all industrial matters, while power is given to certain of its officers to collect statistics with the authority wherewith a Crown Commissioner is invested. "Labour Day" is a public holiday hereby fixed as being the second Wednesday in October of each year.

"The Master and Apprentice Act, 1908," applies mainly to the indenturing of young persons to employers, such children being the offspring of destitute parents. In other respects the law of England is held to be the law governing the relations between master and apprentice in this Dominion, but this is tempered by awards of the Arbitration Court which allot the ratio of apprentices to journeymen engaged. Special sections of the Act apply to the punishment of apprentices for absenting themselves from duty, and to the fine of a master for neglecting or ill-using his apprentice.

“The Crimes Act, 1908” (extracts), in some sections relates to the proper care of apprentices by their masters; but this Act also refers to the position of legal and illegal combinations for trade purposes, and thus partly supersedes “The Conspiracy Law Amendment Act, 1894.” The real position, however, of combinations among employers or workmen in restraint of trade is more effectively dealt with by “The Industrial Conciliation and Arbitration Amendment Act, 1908,” in which the practical control of strikes and lockouts (so far as workers are affected) is attempted with considerable minuteness of detail.

“The Trade-unions Act, 1908,” although unrepealed, is not of paramount importance, because most of the trade-unions have become industrial unions under the Arbitration Act, the few remaining on the Trade-union Register continuing to do so mostly on account of having friendly-society benefits under their old rules.

“The Police Offences Act, 1908,” also contains certain restrictive measures dealing with conspiracy in regard to supply of light and water.

“The Scaffolding Inspection Act, 1908,” gives power for the appointment of Inspectors to examine scaffolding and gear used in the erection or repair of buildings, ships, &c., and to see that all due precaution is used for the prevention of accidents, and to insure safety of workers’ lives and limbs.

“The Workers’ Dwellings Act, 1908,” contains the provisions necessary to allow land to be acquired and set apart for the erection of homes for workers. The land is acquired under “The Land for Settlements Act, 1908” (extracts published herewith); the houses may not exceed £400 in cost; the applicant must not be in receipt of wages exceeding £200 per annum.

The Advances to Workers Acts are now merged in “The Government Advances to Settlers Act, 1908,” but it is not published herewith.

Holidays for workers in the different trades are regulated generally under awards of the Arbitration Court, but by statute are referred to in the Factories, Shops, and other general Acts. Special enactments concerning them are to be found in “The Licensing Act, 1908” (extracts); in “The Legislature Act, 1908” (extracts); and in “The Banking Act, 1908” (extracts).

EDWARD TREGEAR,  
Secretary for Labour.

## LIST OF ACTS.

Acts.	Acts consolidated.	Page.
Accident Insurance Companies Act, 1908	Accident Insurance Companies Act, 1902	1
Banking Act, 1908 (extracts) ..	Bank Holidays Act, 1902.. ..	5
Bankruptcy Act, 1908 (secs. 112 and 120, <i>re</i> wages of employees)	Bankruptcy Act, 1892 (secs. 112 and 120)	7
Coal-mines Act, 1908 (extracts) ..	Coal-mines Compilation Act, 1905	9
Coal-mines Amendment Act, 1908 ..	..	61
Companies Act, 1908 (secs. 1 and 249, <i>re</i> wages of employees of companies that are being wound up)	Companies Act, 1903 (secs. 1 and 249)	62
Crimes Act, 1908 (secs. 89 and 168, <i>re</i> conspiracy in trade disputes, <i>re</i> masters and apprentices)	Conspiracy Law Amendment Act, 1894; Criminal Code Act, 1893 (secs. 150 and 213)	63
Deaths by Accidents Compensation Act, 1908	Deaths by Accidents Compensation Act, 1880; Legitimation Act, 1894 (sec. 6)	64
Factories Act, 1908 .. ..	Factories Act, 1901; Factories Amendment Act, 1902; Factories Act Amendment Act, 1905; Factories Act Amendment Act, 1906; Factories Act Amendment Act, 1907	66
Industrial Conciliation and Arbitration Act, 1908	Industrial Conciliation and Arbitration Acts Compilation Act, 1905	98
	Industrial Conciliation and Arbitration Amendment Act, 1905; Industrial Conciliation and Arbitration Amendment Act, 1906	
Industrial Conciliation and Arbitration Amendment Act, 1908	..	147
Inspection of Machinery Act, 1908	Inspection of Machinery Act, 1902; Inspection of Machinery Act Amendment Act, 1903	169
	..	189
Inspection of Machinery Amendment Act, 1908		
Judicature Act, 1908 (sec. 100, <i>re</i> accidents compensation)	Accidents Compensation Act, 1901	195
Kauri-gum Industry Act, 1908 ..	Kauri-gum Industry Act, 1898; Kauri-gum Industry Act Amendment Act, 1899; Kauri-gum Industry Amendment Act, 1902; Kauri-gum Industry Amendment Act, 1903	196
Labour Department and Labour Day Act, 1908	Labour Day Act, 1899; Labour Department Act, 1903	204
Land for Settlements Act, 1908 (sec. 16)	Land for Settlements Consolidation Act, 1900 (sec. 13)	208
Legislature Act, 1908 (sec. 123, <i>re</i> holiday on election day)	Electoral Act, 1905 (sec. 115) ..	209

LIST OF ACTS—*continued*.

Acts.	Acts consolidated.	Page.
Licensing Act, 1908 (extracts) ..	Licensing Act, 1881 (sec. 131) : Alcoholic Liquors Sale Control Act Amendment Act, 1895 (sec. 10)	210
Master and Apprentice Act, 1908 ( <i>see also</i> Crimes Act, sec. 168)	Master and Apprentice Act, 1865 ..	210
Mining Act, 1908 (extracts) ..	Mining Act Compilation Act, 1905 ; Mining Act Amendment Act, 1905	221
Police Offences Act, 1908 (secs. 1 and 24, <i>re</i> combinations affecting supply of light or water)	Conspiracy Law Amendment Act, 1894	262
Public Contracts and Local Bodies' Contractors Act, 1908 (extracts)	Public Contracts Act, 1900 ..	263
Scaffolding Inspection Act, 1908 ..	Scaffolding Inspection Act, 1906 ; Scaffolding Inspection Act Amend- ment Act, 1907	265
Servants' Registry Offices Act, 1908	Servants' Registry Offices Act, 1895	269
Shearers' and Agricultural Labourers' Accommodation Act, 1908	Shearers' Accommodation Act, 1898 ; Agricultural Labourers' Accom- modation Act, 1907	274
Shipping and Seamen Act, 1908 (extracts)	Shipping and Seamen Act, 1903 ; Shipping and Seamen Act Amend- ment Act, 1905	278
Shops and Offices Act, 1908 ..	Shops and Offices Act, 1904 ; Shops and Offices Act Amendment Act, 1905 ; Shops and Offices Act Amendment Act, 1907	416
Trade-unions Act, 1908 .. ..	Trade-union Act, 1878 ; Trade-union Act 1878 Amendment Act, 1896	439
Wages Protection and Contractors' Liens Act, 1908	Contractors' and Workmen's Lien Act, 1892 ; Threshing-machine Owners' Lien Act, 1895 ; Truck Act, 1891 ; Wages Attachment Act, 1895 ; Wages Protection Act, 1899 ; Workmen's Wages Act, 1893	451
Workers' Compensation Act, 1908 ..	(This Act amends and repeals the consolidated Act of 1908)	480
Workers' Dwellings Act, 1908 ..	Workers' Dwellings Act, 1905 ; Workers' Dwellings Act Amend- ment Act, 1905 ; Workers' Dwell- ings Act Amendment Act, 1906	509

# ANALYSIS OF ACTS CONTAINED IN THIS VOLUME.

The Accident Insurance Companies Act, 1908	..	..	Page 1
<ol style="list-style-type: none"> <li>1. Short Title. Enactments consolidated. Savings.</li> <li>2. Interpretation.</li> <li>3. Company to prepare annual statement.</li> <li>4. Printed statement to be deposited with Minister.</li> <li>5. Further information to be given if required.</li> <li>6. Statements to be laid before Parliament.</li> <li>7. Penalty in default.</li> <li>8. Penalty for signing false statement.</li> <li>9. Penalties recoverable summarily.</li> <li>10. Commissioner's powers.</li> <li>11. Policies free of stamp duty.</li> </ol>			

The Banking Act, 1908	..	..	..	..	5
<i>Bank Holidays.</i>					
<ol style="list-style-type: none"> <li>23. Bank holidays.</li> <li>24. Special bank holidays.</li> <li>25. Employees not to be employed on bank holidays.</li> </ol>					

The Bankruptcy Act, 1908	..	..	..	..	7
<ol style="list-style-type: none"> <li>112. Clerks, &amp;c., may prove for salary, &amp;c., beyond preferential claim.</li> </ol>					
<i>Application of Assets when realised.</i>					
<ol style="list-style-type: none"> <li>120. Moneys to be applied by Assignee in payment of costs and expenses of Assignee; costs of petitioning creditor; costs of petitioning debtor; supervisor's and Assignee's commission; rent due, on certain conditions; wages of clerk or servant; wages of artisan; fee payable to apprentice; provable debts; interest on proved debts; surplus to bankrupt.</li> </ol>					

The Coal-mines Act, 1908	..	..	..	..	9
<ol style="list-style-type: none"> <li>1. Short Title. Enactments consolidated.</li> <li>2. Interpretation.</li> <li>3. Bed of river deemed vested in Crown.</li> </ol>					

## REGULATION OF MINES.

23. Inspectors. Concurrent powers of Inspectors of Machinery and Inspectors of Mines.
24. Mine-manager. Deputy manager. Name of manager to be posted at mine.
25. Board of Examiners.
26. Application for Certificate. First- and second-class certificates.
27. Mine-manager to be holder of certificate or permit.
28. Certificates from beyond New Zealand.

The Coal-mines Act, 1908—*continued*.

Page

29. Engine-drivers' certificates.
30. Official inquiries in case of accidents.
31. Offences.
32. No female or boy to be employed in any mine.
33. Youths not to be employed in certain cases.
34. Youth under eighteen not to work engine, &c., in certain cases.
35. Persons in charge of steam machinery to be employed certain number of hours only.
36. Register of youths employed below ground.
37. Offence to employ youths or boys in breach of Act, &c.
38. Overtime for underground work.
39. Employment of manual labour on Sunday prohibited. Cases in which Inspector may grant permission. Right of appeal. Penalty. Other provision not affected.
40. General rules. Manholes in self-acting or engine planes. Spaces in horse-roads. Keeping spaces clear. Fencing off entrances to shafts. Horizontal bar to be provided where fence or cover is temporarily removed. Securing of shafts. Drives and excavations to be protected. Protected lights to be used in main drives. Division of shafts. Signalling. Clear view for engine-driver. All modes of signalling to be clear and distinct. Cover overhead. Material not to be placed in same cage as men. Braces to be covered overhead. Proper ladder or footway. Chains. Ropes and chains to be tested. Appliance to prevent rope on drum slipping. Brake. Cages to have safety appliances. Spring catches or tumblers to be affixed to skids. Protection to persons ascending or descending shaft. Inclination of ladders. When no haulage permitted. Dressing-rooms. Persons in charge of machinery. Machinery to be examined. Machinery to be kept in good order and condition. Fencing machinery. Gauges to boiler and safety valve. Uninterrupted view of pressure-gauge. Vertical shafts to underground furnaces. Wilful damage. Protection of abandoned shafts. Water and bore-oles. Mines liable to flood to be provided with escape-drives. Ladders to be provided in upcasts. Manager in charge of mine to inspect. Examination of mine. Stations to be appointed. Fencing of places not in use. Withdrawal of workmen in case of danger. Safety lamps and lights. Barometer and thermometer. Right of inspection by miners extended. Books and copy of Act to be kept at mine. Penalty for breach of general rules in this section. Printed copy of general rules to be posted in the office.
41. Special rules in Second Schedule to apply to all mines.
42. Additional rules for particular mines. Saving of existing additional rules.
43. Publication of rules and provisions of Act.
44. Destroying or defacing rules when posted.
45. Rules certified by Inspector to be evidence.
46. False statement by owner, agent, or manager as to posting up rules deemed an offence.
47. Openings in mines to be provided. Not to apply if not more than six persons employed below ground.
48. No agreement to bar liability.
49. Shafts with vertical or overhanging ladders to have platforms.
50. Persons employed in mines to satisfy themselves and to report as to safety of mine.
51. Inspector to make inquiry on complaint of miner.
52. Plan of workings and mine to be kept and copy forwarded to Inspector. Check survey if plan incorrect.

The Coal-mines Act, 1908—*continued*.

53. Plan of abandoned mine to be sent to Minister.
54. Notice to be given to Inspector of abandonment, &c., or opening of mine.
55. Powers of Inspectors.
56. Inspectors to give notice to owner or agent of mine of causes of danger not provided for by rules.
57. If owner or agent objects to comply with requisition, question to be determined by arbitration. If he fails to comply with award, or with requisition where no arbitration, he is guilty of offence against Act. Court may adjourn proceedings for fine to enable requisition or award to be complied with. No agreement to be bar to complying.
58. Power to close dangerous mine.
59. Liability of person committing breach of Act whereby any other person is injured or killed.
60. Accident in mine *prima facie* evidence of negligence. Compensation in case of accidents caused by negligence. Mode of recovery of compensation. Other rights saved.
61. In proceedings against manager or person in charge, burden of proof to lie on defendant that he is not such.
62. Inspection of mine after serious accident.
63. Inspector to attend inquest.
64. As to Coroners' inquests.
65. Power of certain officers to enter and inspect mine.
66. As to question whether mine is a coal-mine or not.

## MISCELLANEOUS.

74. Arbitration.
75. Conduct of arbitration.
76. Injury to adjoining mine by flood-water.
77. Power to make regulations.
78. Inspector to make annual report.
79. Half-yearly returns by owner, agent, or manager of mine.
80. Sick and Accident Fund, and Coal-miners' Relief Fund. Inspector may examine books of mine. Fine for failing to contribute. Fine for obstructing Inspector.
81. Allowance to widow when miner killed by accident.
82. Coal-miners' Medical Fund. Miners' association may form Medical Club. Money to be deducted from wages and paid to credit of Medical Fund. How Medical Fund operated on. Weekly payments by members.
83. Wages to be paid at or near the mine.
84. Wages or contract-money not to be paid at publichouse, &c.
85. Payment of persons employed in mines by weight of mineral gotten. Deductions from weight.
86. Men may appoint check-weigher. Check-weigher not to interrupt the working of the mine. May be removed by Court if he interrupts. Payment of check-weigher.
87. Where persons employed are paid by measure or gauge.
88. Weights and Measures Act to apply.
89. Offences by owner or agent of mines with respect to general, special, or additional rules.
90. Offences against rules by other persons.
91. Fine for obstructing Inspector.
92. Defacing notices.
93. Anything which is an offence if done by owner, agent, or manager of mine is an offence if done by miner in that mine.
94. General penalty for offences against Act.



**The Coal-mines Act, 1908—continued.**

Page

- 95. General fine for offences against rules.
- 98. Governor may direct fine to be paid to person injured or to relative of person killed ; or that portion be paid to person giving information.
- 100. Pay-sheet to be supplied.
- 101. Qualification for appointment as shift-boss, &c.
- 102. Notice may be served by registered letter.
- 103. Expenses of administering this Part of Act to be paid out of moneys appropriated.
- 104. Saving of instruments and regulations.
- 105. All agreements with mine-owner for supply of coal to be deemed suspended during strike in the mine.

*State Coal-mines.*

- 111. Minister may open and work coal-mines.
- 112. Powers of Minister for carrying on coal-mining.
- 113. Powers of Minister in respect of transport of coal.

*Application of Profits.*

- 122. Sinking fund and depreciation fund to be established out of net surplus profits.
- 123. Price of coal may be reduced if net surplus profits exceed 5 per cent.

*Miscellaneous.*

- 124. Mines to be managed and worked subject to Part I of Act where applicable.
- 125. Persons appointed under this Act not Civil servants.
- 126. Industrial disputes in State coal-mines.
- 127. Regulations.
- 128. Provisions as to Westport and Greymouth Harbour Boards.

**The Coal-mines Amendment Act, 1908** .. .. . 61

- 1. Short Title.
- 2. Section 38 of Coal-mines Act amended.
- 3. Section 27 of principal Act amended.
- 4. Section 47 of principal Act amended.
- 5. Crib-time.
- 6. Underviewers, firemen, and deputies.
- 7. Second Schedule of principal Act amended.

**The Companies Act, 1908** .. .. . 62

- 1. Short Title.
- 249. Wages and salary to be preferential claims, and to rank equally. Liquidator to discharge same upon receipt of sufficient assets.

**The Crimes Act, 1908** .. .. . 63

- 89. Conspiracy in trade disputes.
- 168. Duty of masters to provide necessaries. Neglect of master to provide necessaries.

**The Deaths by Accidents Compensation Act, 1908** .. .. . 64

- 1. Short Title. Enactments consolidated.
- 2. Interpretation.
- 3. Action to be maintainable when death is caused by wrongful act, neglect, &c.

Deaths by Accidents Compensation Act, 1908— <i>continued</i> .	Page
1. Action to be for benefit of family.	
5. To be brought in name of executor, &c.	
6. Appropriation of proceeds.	
7. Money paid into Court may be paid in one sum.	
8. Only one action shall lie.	
9. Plaintiff to deliver full particulars of claim made.	
10. Action may in certain cases be brought by persons beneficially interested.	

The Factories Act, 1908 .. .. .	66
---------------------------------	----

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.

*Inspectors and Medical Authorities.*

3. Inspectors may be appointed. Inspectors may hold office with other offices.
4. Chief Inspector. Deputy Chief Inspector.
5. Governor may appoint medical authorities. Medical authority not a Civil servant.

*Inspection.*

6. Powers of Inspectors.
7. Occupiers to allow entry and inspection.
8. Obstruction of Inspector.
9. Inspector to have certificate of appointment. Penalty for forging.

*Registration of Factories.*

10. Factory not to be used until registered.
11. Particulars to be specified in application. Plan to be furnished.
12. Inspector to examine intended factory.
13. Inspector may require defects to be remedied. Appeal to local authority from such requisition.
14. Mode of registration. Certificate of registration. Registration fee.
15. Increased fee payable if employees increased.
16. Duration of registration.

*Records and Notices in Factories.*

17. Records to be kept in factory. Notices to be exhibited and maintained. Fine or default herein.

*Hours of Work in Factories.*

18. Limits to working-hours of male workers.
19. Rules as to hours of work of women and boys.
20. Hours of women and boys in woollen-mills.
21. Prevention of evasion of working-hours.

*Overtime.*

22. Conditions under which limit of working-hours may be exceeded. Overtime-book.
23. Special provision as to overtime in fruit-canning factories.
24. Permit for overtime.

*Special Provisions as to Women and Boys.*

25. Restrictions as to deductions from wages; also as to wet spinning, &c.
26. Provisions as to meals and meal-times of women and boys in factories.

The Factories Act, 1908—*continued.*

Page

*Restrictions as to Age of Persons employed in Factories.*

- 27. Restrictions as to age of boys or girls employed in certain factories.
- 28. Restrictions on employment of boys or girls under sixteen.
- 29. Certificate of fitness as to such boys or girls.

*"Sweating" in Factories.*

- 30. Provisions to be observed when work given out to be done elsewhere than in factory. Certain persons giving out work deemed occupiers of factories.
- 31. Fine when work done by employees elsewhere than in factories.

*As to Payment of Wages.*

- 32. Provisions to secure reasonable remuneration to persons employed in factories.
- 33. Certificate of employment.

*Noxious Processes.*

- 34. Meals not to be taken in room where noxious process carried on.

*Holidays in Factories.*

- 35. What holidays to be allowed without deduction from wages.
- 36. Poll of election as to half-holiday in factories.
- 37. Exceptions as to newspapers.
- 38. Wages payable to wage-earners for holidays.

*Accidents in Factories.*

- 39. Rules to be observed to prevent accidents from machinery. Fine for default.
- 40. Fine for death or injury through default of occupier. Limitation.
- 41. Procedure in case of accident or bodily injury.
- 42. Rules as to noxious or dangerous gas material.

*Fires in Factories.*

- 43. Rules to prevent accidents from fires. Fire-escapes. Doors to open outwards.

*Sanitation of Factories.*

- 44. Sanitation rules.
- 45. Special sanitary rules for bakehouses.
- 46. Fines for defaults in respect of bakehouses.
- 47. Assistant's health likely to contaminate articles of food.
- 48. Provisions extended to factories manufacturing food.
- 49. Power to extend provisions as to lime-washing.
- 50. Nuisances adjoining factory to be removed.
- 51. Provisions to check spread of disease by infection, &c.
- 52. Proceedings as to nuisances or sanitary defects may be taken under other Acts.

*Offences, Penalties, and Procedure.*

- 53. Rules and requirements of Acts to be complied with.
- 54. Offences as to certificates and other documents.
- 55. Fine on parent if young person employed in breach of Act.
- 56. Evidence as to person employed in breach of Act.
- 57. Fine where no specific penalty provided.
- 58. Proceedings to be before Magistrate alone.

The Factories Act, 1908—*continued*.

Page

59. Occupier may have actual offender charged.
60. Provisions where offence relates to sanitation or accidents.
61. Procedure in respect to proceedings.
62. Right of appeal.
63. Civil liability to pay overtime or wages not affected.

*Miscellaneous Provisions.*

64. Adjacent buildings included in factory.
65. Mode of computing persons employed in factory.
66. Provisions as to requisitions by Inspector to occupiers.
67. Inspector to furnish local report.
68. Minister to prepare annual report.
69. Particulars to be given in Minister's report.
70. Regulations.
71. Application of fees and fines.
72. Salaries of Inspectors and expenses to be appropriated. Payment of expenses of local authorities.
73. Act not to apply to shearers or agricultural labourers.

## The Industrial Conciliation and Arbitration Act, 1908

.. 98

1. Short Title. Enactments consolidated. Savings.

## PRELIMINARY.

*Interpretation.*

2. Interpretation.

*Administration.*

3. Minister of Labour to administer Act.
4. Secretary for Labour to be Registrar. Registrar may state case. Deputy Registrar.

## REGISTRATION.

*Industrial Unions.*

5. What societies may be registered. Mode of application and terms of rules.
6. Registration of society.
7. Incorporation of society.
8. Special provisions as to registering trade-unions.
9. Special provisions as to registering societies of employers. Registration of a foreign company represented by agent.
10. Societies not to be registered under similar names.
11. Provision to prevent multiplicity of unions.
12. Effect of registration.
13. Amendment of rules. Printed copies to be supplied.
14. Registered office and branch office of industrial union.
15. Members may be sued for fees or dues.
16. Power to purchase or lease land.
17. Industrial unions to send half-yearly list of members and officers to Registrar. Fine.
18. Industrial union may sue in registered name. Service of notices.
19. Mode of executing deeds and instruments.

*Amalgamation of Industrial Unions.*

20. Amalgamation of industrial unions.

Industrial Conciliation and Arbitration Act, 1908—*continued.*

Page

*Cancellation of Registration.*

21. Procedure for cancellation of registration.
22. Cancellation of registration of defunct union.

*Industrial Associations.*

23. Councils representing unions may be registered. Application of prior provisions.

## INDUSTRIAL DISPUTES IN RELATED TRADES.

24. Industrial disputes in related trades.

## INDUSTRIAL AGREEMENTS.

25. Parties to industrial agreements defined. Term and form of agreement. Date of agreement. Industrial agreement to continue in force till superseded.
26. Duplicate to be filed.
27. Parties to agreement may be added.
28. On whom agreement binding.
29. Agreements may be varied, renewed, or cancelled.
30. Enforcement of agreements.

## CONCILIATION AND ARBITRATION.

*Districts and Clerks.*

31. Constitution of industrial districts.
32. Alteration of boundaries.
33. Clerk of Awards for each district.
34. May hold office in conjunction with other office.
35. Duties of Clerk.

*Boards of Conciliation.*

36. District Boards to be constituted.
37. Number of members of Board, and election.
38. Term of office. Existing Boards continued in office.
39. Provisions for ordinary elections.
40. Meeting for election of Chairman.
41. Notice of election of Board to be gazetted.
42. Resignation of member.
43. Casual vacancies.
44. How casual vacancy to be filled.
45. No member of a Board to be nominated for another Board.
46. Governor may appoint on failure to elect Chairman or member.
47. Quorum of Board. Absence of Chairman.
48. Mode of voting.
49. Acts of Board not to be questioned for informality.
50. Term of office of Board may be extended if engaged in hearing dispute.

*Special Boards of Conciliators.*

51. Special Boards may be created in certain cases.
52. Preceding provision applied subject to certain modifications.

*Functions and Procedure of Conciliation Boards.*

53. Procedure for reference of industrial dispute to Board.
54. Powers and duties of Board for hearing dispute.
55. Report or recommendation of Board to be filed.

Industrial Conciliation and Arbitration Act, 1908 *—continued.*

Page

- 56. Procedure if parties accept Board's recommendation.
- 57. Memorandum of settlement.
- 58. Memorandum of consent to accept Board's recommendation.
- 59. Reference to Court if dispute not settled by Board.
- 60. Power to refer dispute direct to Court.
- 61. Board may state case.

*The Court of Arbitration.*

- 62. Court of Arbitration.
- 63. Seal.
- 64. Constitution of Court.
- 65. Appointment of Judge of Court.
- 66. Appointment of nominated members. Procedure for appointment of nominated members. Term of office.
- 67. Existing Court and members continued.
- 68. When acting-member to act.
- 69. Acting-member to act when permanent member a party to dispute.
- 70. Resignations.
- 71. Power of removal by Governor.
- 72. Mode of filling casual vacancy.
- 73. Oath of office and secrecy.
- 74. Remuneration of members of the Court. Act a permanent appropriation of salaries.
- 75. Registrar to the Court. Officers may be appointed.

*Jurisdiction and Procedure of the Court.*

- 76. Jurisdiction.
- 77. Clerk to notify Judge when dispute referred
- 78. Parties to proceedings before Court
- 79. Sittings of Court.
- 80. Appearance of parties.
- 81. Powers of Court.
- 82. Provisions as to all applications and as to disputes pending.
- 83. Evidence.
- 84. Quorum. Decision to be of majority of Court. Judge to deliver decision.
- 85. Matters may be referred to a Board for investigation.
- 86. Court may dismiss frivolous cases.
- 87. Court may award costs and apportion same.
- 88. When award to be made.
- 89. Award to be signed, sealed, and deposited in office.
- 90. Terms of award.
- 91. Awards made prior to Act to continue in force.
- 92. Special powers to extend, or join parties to, an award. Workers to whom award to extend.
- 93. Application may be made to Court by any party.
- 94. Court may add parties to an award.
- 95. Award may be applied to different trades in one business.
- 96. Award under seal to be evidence. Proceedings not to be impeached for want of form.
- 97. Court to fix what constitutes breach of award and penalty therefor.
- 98. Court may prescribe minimum rate of wages.
- 99. Amount of costs or expenses to be fixed.
- 100. Inspectors of Awards.
- 101. Provisions for enforcing awards.
- 102. Provisions for enforcing industrial agreements.
- 103. Jurisdiction of Court to deal with offences.
- 104. Court may make rules.

**Industrial Conciliation and Arbitration Act, 1908—continued.**

Page

*General Provisions as to Board and Court.*

- 105. Disqualification of members of Board or Court.
- 106. Case may be stated for Supreme Court.
- 107. Jurisdiction not affected by fact that no member of union is concerned in dispute. References to Board or Court to be approved by resolution of union. Special meeting for such purpose. Certificate of chairman evidence.
- 108. Special provisions in case of an industrial dispute.
- 109. When dismissal of employee breach of Act. When worker deemed dismissed.
- 110. Combining to defeat award.
- 111. Provisions in case of strike or lock-out.
- 112. Appointment of experts as assessors to Board or Court.
- 113. Powers of Board or Court as to joinder, waiver, and extension of time. Exercise of powers when Board or Court not sitting.
- 114. Contempt of Board or Court.
- 115. Obstruction of Board or Court.
- 116. Power to proceed if any party fail to attend.
- 117. Proceedings to continue on change in Board or Court.
- 118. Proceedings not to abate by reason of death. Recommendation or award not void for informality.
- 119. Proceedings of Board or Court to be public. When sittings held.
- 120. Powers of entry to Board or Court for examination of factories, &c. Inspection of work and interrogation of persons.

*SPECIAL AS TO GOVERNMENT RAILWAYS.*

- 121. Provisions as to Government railways. Amalgamated Society of Railway Servants deemed registered. May enter into industrial agreement with Minister. Procedure in case of disputes. Jurisdiction of Court.

*MISCELLANEOUS.*

- 122. Awards to continue in force when portion of district severed.
- 123. Permit to work at less than minimum wage.
- 124. Notifications in *Gazette* to be evidence.
- 125. Documents under seal of Court and certain signatures to be judicially noticed.
- 126. Service of process on Sundays void.
- 127. Regulations. Regulations to be laid before Parliament.
- 128. Saving of fees payable in other Courts.
- 129. Expenses of administration payable out of moneys appropriated.
- 130. Stamp duty not payable in certain cases.
- 131. Act not to apply to Crown or Government Departments.

**The Industrial Conciliation and Arbitration Amendment Act, 1908 147**

- 1. Short Title.
- 2. Commencement of Act.

**PART I.***STRIKES AND LOCK-OUTS.*

- 3. Definition of "strike."
- 4. Definition of "lock-out."
- 5. Penalties on parties to strike or to lock-out.
- 6. Offences in connection with strike or lock-out by persons not parties thereto.

The Industrial Conciliation and Arbitration Amendment Act,  
1908—*continued*.

- |                                                                                             |      |
|---------------------------------------------------------------------------------------------|------|
| 7. Recovery of penalties.                                                                   | Page |
| 8. Repeal.                                                                                  |      |
| 9. Special penalties with respect to strikes and lock-outs in certain specified industries. |      |
| 10. Suspension of registration of union convicted of certain offences.                      |      |

PART II.

ENFORCEMENT OF AWARDS AND INDUSTRIAL AGREEMENTS.

11. Repeal.
12. Application of provisions as to enforcement of awards and agreements.
13. Penalties for breach of award or industrial agreement.
14. Recovery of penalties.
15. Defendant to give notice of intention to defend.
16. Powers of Magistrate hearing action.
17. Application of penalties recovered.
18. Magistrate may state case for Court of Arbitration.
19. Appeal from Magistrate to Court of Arbitration.
20. Enforcement of judgment.
21. Penalties may be recovered in Court of Arbitration. Procedure.
22. Governor may make regulations as to procedure.
23. Enforcement of certificate of Court of Arbitration.
24. In default of industrial union or association, amount of judgment may be recovered from members thereof.
25. Unsatisfied judgment not to be a bar to action at suit of another plaintiff.
26. Actions to be brought within six months.

PART III.

CONCILIATION.

27. No further reference of disputes to Conciliation Boards.
28. In first instance, disputes to be referred to Councils of Conciliation.
29. Appointment of Conciliation Commissioners.
30. Industrial Union, &c., may apply to have dispute referred to Council of Conciliation.
31. Commissioner to appoint date for hearing dispute and to cite respondents to attend.
32. Qualification and appointment of assessors on behalf of respondents.
33. Commissioner and assessors to constitute Council of Conciliation.
34. Appointment of assessor to fill vacancy in Council.
35. Powers and duties of Council with respect to dispute.
36. Parties to dispute may appear before Council.
37. Council may proceed with inquiry, notwithstanding absence of applicants or respondents.
38. Commissioner may join or strike out parties as applicants or respondents.
39. Terms of settlement to form industrial agreement.
40. Provisional arrangement where no settlement arrived at.
41. Commissioner may take steps to secure a voluntary settlement of disputes.
42. Council to notify Clerk of Awards if settlement of dispute not arrived at.
43. Council may, prior to notification aforesaid, make recommendation for settlement of dispute.
44. Council may deliver to Clerk of Awards memorandum of partial settlement.



The Industrial Conciliation and Arbitration Amendment Act,  
1908—*continued*. Page

45. Council may state case for Court of Arbitration.
46. Clerk of Awards to refer dispute to Court of Arbitration.
47. Powers of Court with respect to dispute.
48. Repeal.
49. Regulations.
50. Certain provisions of principal Act as to Boards of Conciliation to apply to Councils of Conciliation.

#### PART IV.

##### MISCELLANEOUS.

51. Section 2 of principal Act amended.
52. Definition of "industrial matters" amended.
53. Section 5 of principal Act amended.
54. Section 23 of principal Act amended.
55. Section 66 of principal Act amended.
56. Section 92 of principal Act amended.
57. Section 97 of principal Act amended.
58. Section 100 of principal Act amended.
59. Judge of Arbitration Court may state case for Court of Appeal. Repeal.
60. Penalty for dismissal of workers for certain reasons. Repeal.
61. Recovery by worker of difference between wages paid and wages fixed by award.
62. Certificate of Labour Department to be proof of age of young workers.
63. Copy of award to be conspicuously placed in factory or shop affected thereby.
64. Repeal.
65. Permits for under-rate workers.
66. Section 123 of principal Act amended.
67. Extension of application of industrial agreement on application by party thereto.
68. Validation of informal proceedings, &c.
69. Awards to prevail over contracts of service in cases of conflict.
70. Court may fix date of award.
71. Awards and industrial agreements to apply only to workers employed for pecuniary gain.
72. Court may refuse to make award.
73. Cancellation of registration of industrial unions.
74. Award not to be affected by subsequent legislation unless contrary intention expressed.

The Inspection of Machinery Act, 1908 . . . . . 169

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.

##### *Administration.*

3. Districts.
4. Chief Inspector and Inspectors.
5. Inspector's certificate of appointment.
6. False certificate.
7. Powers and duties of Chief Inspector.
8. Inspector to keep minutes, and report to Chief Inspector.
9. Powers and duties of Inspectors.

The Inspection of Machinery Act, 1908—*continued.*

Page

*Machinery subject to Act.*

- 10. Machinery to which Act applies.
- 11. Persons having machinery subject to Act to notify Inspector.

*Employment of Young Persons.*

- 12. Young persons not to be employed in certain cases.

*Fencing of Machinery.*

- 13. Certain machinery to be fenced.
- 14. Notice of machinery requiring fencing.

*Defective Machinery.*

- 15. Faulty or defective machinery.

*Provisions affecting Boilers.*

- 16. Certain provisions of the Act applied to boilers.
- 17. Standards and appliances to be provided.
- 18. Record of first inspection.
- 19. Subsequent inspections.
- 20. Inspector's record-books.
- 21. When boilers to be inspected.
- 22. May be inspected at any reasonable time.
- 23. Notice to owner of faulty boiler.
- 24. Owner to notify Inspector of repairs.
- 25. Increasing pressure in boiler.
- 26. Inspectors' reports.

*Fees for Inspection.*

- 27. Fees for inspection.
- 28. Inspector receiving excessive fee.

*Certificates of Inspection.*

- 29. Certificate of inspection.
- 30. Certificate to be exhibited in conspicuous place.
- 31. Duration of certificate of boiler.
- 32. Of machinery.
- 33. Working without a certificate.

*Duties and Liabilities of Owners of Boilers and Machinery.*

- 34. Notice of sale, &c., of boiler or machinery.
- 35. Liability of owner in first instance.
- 36. Proceedings against actual offender.
- 37. Notice of intention to prosecute.
- 38. When owners and mortgagees not liable.

*Inquiries as to Accidents.*

- 39. Inspector to be notified of accident.
- 40. Inquiry into cause of accident.

*Examination and Certificates of Engine-drivers.*

- 41. Drivers of winding-engines and travelling engines.
- 42. Drivers of stationary engines and boilers.
- 43. Certain engineers deemed qualified under this Act.
- 44. Provision for gold-dredges.
- 45. Holders of marine, &c., certificates.

The Inspection of Machinery Act, 1908—*continued*.

Page

46. Certificate of service to rank equally with certificate of competency.
47. Certain holders of second-class certificates entitled to be examined for first-class.
48. Examinations.
49. Certificates from beyond New Zealand recognised.
50. Disqualification of holder of certificate.
51. Acting without certificate.
52. Obtaining certificate improperly.

*Miscellaneous.*

53. Protection of Inspectors.
54. Power to enter and inspect certificates.
55. Responsibility of owners. &c., maintained.
56. Service of notices, &c.
57. General penalty.
58. Application of part of fine to person injured.
59. Expenses of administration.
60. No *certiorari*.
61. Regulations.
62. Act not to extend to certain machinery, &c.

## The Inspection of Machinery Amendment Act, 1908 .. .. 189

1. Short Title.
2. Section 2 of principal Act amended. Repeal.
3. Employment of young persons on lifts forbidden.
4. Section 25 of principal Act amended.
5. Glass water-gauges to be protected.
6. Alterations in cylinders to be notified to Inspector.
7. Drivers in charge of steam turbine stationary engines.
8. Engine-driver to be in effective charge.
9. In certain case engine and boilers to be in charge of different persons.
10. Portable machinery and boilers.
11. Official number of boiler to be stamped thereon.
12. Driver required when crank-shafts coupled.
13. Section 41 of principal Act amended.
14. Certain maimed persons not to act as engine-drivers.
15. Third-class marine engineer deemed holder of first-class stationary-engine driver's certificate.
16. Certificate of service to rank equally with certificate of competency.
17. Chairman of and Secretary to Board of Examiners.
18. Section 48 of principal Act amended.
19. Section 48 of principal Act further amended.
20. Proof of service.
21. Physical disqualification for engine-driver.
22. Recognition of railway-locomotive drivers' certificates.
23. Repeal.

*Application of Act to Vehicles.*

24. Provisions as to motors and to vehicles propelled by steam. Repeal.

## The Judicature Act, 1908 .. .. 195

100. Independent medical examination of person injured by accident. Proceedings stayed until examination. Section applies to the Crown. Saving of Workers' Compensation for Accidents Act.

	Page
The Kauri-gum Industry Act, 1908 .. ..	196
1. Short Title. Enactments consolidated. Savings.	
2. Governor may—Constitute kauri-gum districts ; kauri-gum reserves ; authorise local authorities to issue licenses.	
3. Local authority may issue licenses. Fine for refusing to issue license.	
4. Classes of licenses.	
5. Kauri-gum reserves.	
6. Who may hold special licenses.	
7. Who may hold ordinary licenses.	
8. Further qualification as to kauri-gum reserves.	
9. Provisions as to form, fee for, and renewal of licenses.	
10. Rights conferred by licenses.	
11. Restrictions as to digging on certain lands.	
12. Rights conferred by gum-buyer's license.	
13. Kauri-gum License Register.	
14. Provisions relating to gum-buyers and their licenses.	
15. Prohibition as to digging for or buying kauri-gum.	
16. What to constitute breach of Act.	
17. Owner of Native or other land may dig thereon without license.	
18. Authorised local authorities to administer Act and appoint Rangers.	
19. Constables to assist.	
20. Constables may be Rangers.	
21. Power and functions of Rangers and constables.	
22. License to be produced.	
23. Fine for breach of Act.	
24. License to be produced in Court.	
25. Conviction to be indorsed on license.	
26. Mode of forfeiture of license, and procedure thereupon.	
27. Fines payable to authorised local authority.	
28. Fees and fines to form part of general funds.	
29. Gum-digging in State forests.	
30. Regulations.	
31. Right to dig to include searching and removing.	
32. Kauri-gum reserves may be leased for coal or gold-mining.	
33. When reserve ceases to be such.	

The Labour Department and Labour Day Act, 1908 .. ..	204
------------------------------------------------------	-----

- |                                                                         |  |
|-------------------------------------------------------------------------|--|
| 1. Short Title. Enactments consolidated. Savings.                       |  |
| <i>Labour Department.</i>                                               |  |
| 2. Interpretation.                                                      |  |
| 3. Department of Labour established.                                    |  |
| 4. Governor may appoint a Secretary and other officers.                 |  |
| 5. Expenses to be paid out of moneys appropriated.                      |  |
| 6. Duties of Department.                                                |  |
| 7. Powers of Department in collecting information.                      |  |
| 8. Information obtained not to be divulged.                             |  |
| 9. Minister or officer to have powers under Commissions of Inquiry Act. |  |
| 10. Refusal to give information.                                        |  |
| 11. Recovery of fines.                                                  |  |
| 12. Annual report to Parliament.                                        |  |
| 13. Regulations.                                                        |  |

*Labour Day.*

- |                                  |  |
|----------------------------------|--|
| 14. Labour Day instituted.       |  |
| 15. Labour Day a public holiday. |  |

	Page
The Land for Settlements Act, 1908 .. .. .	208
16. Special provisions for taking land to provide workers' homes.	
The Legislature Act, 1908 .. .. .	209
123. Day of election to be half-holiday.	
The Licensing Act, 1908 .. .. .	210
39. Day of election to be a public half-holiday.	
46. Day of election a public half-holiday.	
167. Wages not to be paid in licensed premises.	
The Master and Apprentice Act, 1908 .. .. .	210
1. Short Title. Enactments consolidated. Savings.	

## PART I.

## MASTERS AND APPRENTICES GENERALLY.

2. Interpretation.
3. Exemption.
4. Laws of England relating to master and apprentice to extend to New Zealand.
5. Orphan apprentices.
6. Indentures of apprentices.
7. Apprentice may be taken. Indenture of apprenticeship to be executed.
8. Deserted children may be apprenticed.
9. Any master may with consent of two Justices assign such apprentice to any other fit and proper person.
10. Unauthorised transfer or discharge.
11. Jurisdiction of Justices.
12. Ill usage of apprentices.
13. Punishment of apprentices offending.
14. Apprentices absenting themselves.
15. No *certiorari*.
16. Application of fines.
17. Appeal.

## PART II.

## GOVERNMENT APPRENTICES.

18. Interpretation.
19. Application of this Part.
20. Who may take apprentices. Term of apprenticeship.
21. Indenture of apprenticeship. Payment of wages.
22. Apprentices may be removed from one workshop or from one part of New Zealand to another.
23. Provision in case of death or removal of master.
24. Regulations for conduct of apprentices.
25. Master not to discharge apprentice without consent of Minister.
26. Minister may direct causes of complaint between master and apprentice to be investigated, or may refer case to Magistrate.
27. Magistrate may investigate cause of complaint against apprentice.
28. Provision in case apprentice absents himself.
29. No *certiorari*.
30. Offences, &c., to be heard in a summary way.
31. Apprentices not to be subject to the Civil Service Act.

	Page
The Mining Act, 1908 .. .. .	221
1. Short Title. Enactments consolidated. Savings.	

## PART I.

## PRELIMINARY.

2. Act not to apply to coal or coal-mining.
3. Application to diamonds and other precious stones.
4. Interpretation.
5. Matters arising under repealed Acts to be determined thereunder.
6. Proclamations, &c., to continue in force.
7. Proclamations, &c., may be applied partially or generally.

## PART II.

## DISTRICTS AND APPOINTMENTS.

8. Governor may constitute districts, alter their boundaries, or withdraw Crown lands therefrom.
9. Constitution of Wardens' Courts and appointment of Wardens.
10. Appointment of Mining Registrars, Receivers of Gold Revenue, Clerks, and bailiffs. Deputies thereof.
11. Appointment of Inspectors of Mines and post-offices for payments.
12. Existing districts and Courts continued.
13. Persons continued in office.
14. Officers not to have personal interest.
15. Penalty on Warden for acting if interested.

## PART IV.

## MINING PRIVILEGES.

*Rights and Liabilities of the Holders of Claims and other Mining Privileges.*

97. Labour conditions.
98. Provisoes. Date of commencement of work may be extended in certain cases. As to contiguous claims held by same person. Number of workmen on dredging claims. Labour conditions as to dredging claims. Proportion of workmen to expenditure of capital.

*As to Workmen and other Persons employed in Mining Privileges.*

213. Payment of wages at or near the mine.
214. Lien for wages or contract-moneys.
215. Lien to have priority.
216. Warden to determine all questions relating to liens.
217. Mining privileges may be sold to satisfy lien.
218. How proceeds of sale to be applied. Warden may execute transfer of sale.
219. Mortgagee may satisfy liens.
220. Moneys so expended to be added to mortgage.
221. Mining privilege includes plant and machinery.
222. Exceptions.
223. Lien of tributers on earnings of claim.
224. Right to metals and minerals found to vest in employer.

*As to Tribute Agreements.*

225. Provisions as to agreements for working claims on tribute.

The Mining Act, 1908—*continued*.

Page

## PART V.

## WORKING, REGULATION, AND INSPECTION OF MINES.

*As to Certificated Mine-managers, Battery Superintendents, Engine-drivers, and Dredge-masters.*

- 226. Board of Examiners.
- 227. Appointment of Chairman, examinations and procedure, and alteration of constitution.
- 228. Mine-manager to be holder of certificate.
- 229. Battery superintendent's certificate.
- 230. Engine-driver to have certificate.
- 231. Dredgemasters to hold certificate.
- 232. Certificates issued under former Mining Acts saved.

*Certificates by Examination.*

- 233. Application to be examined. Fee. Subjects of examination.
- 234. Candidate to supply proof of experience.

*Certificates without Examination.*

- 235. Certificates from outside New Zealand recognised.

*Employment and Disqualification of Certificate-holders.*

- 236. When unlawful to work without manager, superintendent, or engine-driver.
- 237. Name of mine-manager or battery superintendent to be furnished.
- 238. Deputy manager.
- 239. Certificate to be produced to Warden or Inspector.

*As to the Employment of Persons in Mines.*

- 240. Limit of hours of employment in mines.
- 241. Who may not work in mine.
- 242. Limit of employment of persons under eighteen.
- 243. Employment of manual labour in mines on Sunday prohibited.
- 244. Cases in which Inspector may grant permission.
- 245. Right of appeal.
- 246. Fine for employing workman on Sunday. What a sufficient defence.
- 247. Not to affect other provision.
- 248. Overtime and hours for working underground. Rate of wages for work on Sundays or holidays.

*As to Drainage of Mines.*

- 249. Owners of mines to contribute to cost of raising water by machinery.
- 250. Not liable for accidental stoppage of machinery. Liable for other discontinuance unless notice given.
- 251. Council may contribute to expenses of draining.
- 252. Governor may by regulations fix drainage-areas, constitute Drainage Boards, and prescribe their functions, &c.
- 253. Thames Drainage Board deemed duly constituted.

*As to the Working of Mines, and the Safety of Life and Property therein.*

- 254. General rules. Ventilation. Cyanide and concentrating plants. Gunpowder and blasting. Manholes in self-acting or engine planes. Spaces in horse-roads. Keeping spaces clear. Fencing off entrance to shafts. Abandoned or disused shaft. Horizontal bar when fence or cover temporarily removed. Securing of shafts. Protec-

The Mining Act, 1908—*continued*.

Page

tion of drives. Division of shafts. Signaling. Knowledge of signals. Clear view for engine-driver. All modes of signalling to be clear and distinct. Signalling along drives in alluvial mines. Cover overhead. Regulating descent of persons in cages. Materials not to be sent with men. Braces to be covered. Proper ladder or footway. Chains. Ropes and chains to be tested. Slipping of rope on drum. Brake. Appliances to prevent sudden fall of cage. Spring catches or tumblers to be affixed to skids. Protection to person descending shaft by rope. Inclination of ladders. Dressing-rooms. Control of steam-engine. Absence from machinery in use. Machinery to be examined. Machinery to be kept in good order. Fencing machinery. Gauges to boiler and safety valve. Smoke not to be allowed to escape. Wilful damage. Abandoned shafts not to be damaged. Boring-rods to be used. Mines liable to flood to have escape-drives. Ladders to be provided in each rise. Mine-manager to examine safety appliances, buildings, &c. Condemned appliances to be removed. Books and copy of Act to be kept at mine. Offence by mine-manager. Copy of this section to be publicly posted.

255. Certain provisions to apply to dredges.

256. Misusing or not using sanitary appliances.

257. Manager may institute proceedings in certain cases.

*As to Plans and Inspection of Mines.*

258. Plans of underground workings of mine to be kept. Inspector may require plan to be made. Check survey on default or if plan incorrect.

259. Further plans to be kept in mines liable to be flooded.

260. Provision for protecting mines at Thames from flooding.

261. Inspector to give notice of dangerous or defective matters not provided for. Objections.

262. Employees to report unsafe appliances or dangerous matters.

263. Inspector to make inquiry into complaints.

264. Inspection of mine by workmen.

*As to Accidents in Mines.*

265. Negligence an offence if person injured or killed.

266. Official inquiries in case of accidents.

267. Presumption of negligence of owner.

268. Compensation recoverable in case of accidents.

269. When accident occurs mine not to be interfered with. Notice. Report.

270. Coroners' inquests on deaths from accidents in mines.

*General Provisions as to Inspection.*

271. Inspectors to inspect mines and see Act carried out. Powers hereunder. Powers of Government Geologist.

272. Powers of Health Officers.

273. Powers of Inspectors of Machinery not affected.

274. Right of shareholder to enter mine and inspect workings.

*As to Penalties.*

275. Penalty for offences.

276. Payment of fine to person injured.



	Page
The Police Offences Act, 1908 .. .. .	262
1. Short Title.	

*Combinations affecting the Supply of Light or Water.*

24. Combination affecting the supply of gas, electric light, or water.

The Public Contracts and Local Bodies' Contractors Act, 1908 ..	263
-----------------------------------------------------------------	-----

1. Short Title. Enactments consolidated.
2. Interpretation.

*Public Contracts.*

3. Usual length of working-day and rates of wages implied in public contracts.
4. Working-day not to exceed eight hours.
5. Incorporation thereof in public contracts.
6. No contracting out.
7. Penalty.

The Scaffolding Inspection Act, 1908 .. .. .	265
----------------------------------------------	-----

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.
3. Inspectors and districts.
4. Notice to be given before scaffolding erected.
5. Scaffolding and gear to be in accordance with regulations.
6. Powers of Inspector. Appeal to Minister. Penalties.
7. Length of ladders to be used in building. Joists to be covered.
8. Interfering with Inspector.
9. Accidents to be reported.
10. How proceedings may be taken.
11. Expenses of Act to be appropriated.

The Servants' Registry Offices Act, 1908 .. .. .	269
--------------------------------------------------	-----

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.
3. Every person keeping a registry office to be licensed.
4. Application for license. Fee.
5. Duration of license.
6. Inspector to keep register.
7. Evidence of entry in register.
8. Books and records to be kept by license-holder.
9. To be open to inspection.
10. Copies of entries may be taken.
11. Name to be posted up.
12. License not transferable. Unlicensed person not to hold himself out as licensed.
13. Governor may prescribe scale of fees.
14. License-holder to post list of fees in his office.
15. Fees allowed to be received.
16. License-holder may not have interest in lodginghouse. Interest defined.
17. Illegal contracts or agreements.
18. Breach of Act.
19. Onus on accused to prove he is licensed.
20. Accused to produce his license.

The Servants' Registry Offices Act, 1908—*continued*.

Pa

21. Conviction to be indorsed on license.
22. When license deemed to be cancelled.
23. Effect of cancellation.
24. Recovery of license-holder's fees.
25. If license lost, duplicate may be issued.
26. Fees, &c., to be paid into Public Account.

The Shearers' and Agricultural Labourers' Accommodation Act,  
1908 .. .. . 27

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.
3. Appointment of Inspectors.
4. Inspector's right of ingress and egress. Obstructing an Inspector.

*Shearers.*

5. Inspection of shearing-sheds.
6. Proper accommodation to be provided.
7. Separate sleeping-accommodation for Chinese.
8. Accommodation.
9. Act not to apply in certain cases.

*Agricultural Labourers.*

10. Proper accommodation to be provided.
11. Separate sleeping-accommodation for Asiatics.
12. Act not to apply in certain cases.
13. Governor may make regulations. Regulations to be presented to Parliament.

*General.*

14. Magistrate may make order.
15. Information for fine, &c., to be laid in nearest Magistrate's Court.
16. No appeal from Magistrate.

## The Shipping and Seamen Act, 1908 .. .. . 278

1. Short Title and commencement of Act. Enactments consolidated. Savings.

## PRELIMINARY.

2. Application of Act. Limitation of application.
3. Flag for New Zealand merchant ships. New Zealand Ensign. Use of ensign. Penalty for defacing ensign.
4. Interpretation.

## PART I.

## GENERAL MANAGEMENT.

*Powers for enforcing Compliance with Act.*

14. Power of principal officer of Customs and Superintendent and Surveyor.

*Surveyors of Ships.*

15. Appointment of Surveyors. Chief Surveyor. Remuneration and duties of Surveyors. Surveyors demanding fees not authorised.
16. Powers of Surveyors.
17. Surveyors to make returns.

The Shipping and Seamen Act, 1908—*continued*.

Page

*Marine Inspectors.*

- 18. Appointment of Inspectors.
- 19. Powers of Inspectors.
- 20. Persons obstructing Inspector.

## PART II.

## MASTERS, OFFICERS, AND SEAMEN.

*Certificates of Competency.*

- 21. Certain officers to hold certificate. Fraudulent employment as master, mate, &c., to evade Act.
- 22. Certificates of different grades.
- 23. Examination for certificate. Examination fees.
- 24. Examiners in sight-tests. Officers may be examined for sight-test.
- 25. Certificate.
- 26. Certificate without examination in certain cases.
- 27. Service certificates.
- 28. Certificate to be in duplicate.
- 29. Lost certificate.
- 30. Rating of engineers.
- 31. Certificate to be produced.
- 32. Offences as to certificate.

*Access to Charts.*

- 33. Officers taking part in navigation to have access to charts.

*Apprenticeship to the Sea Service.*

- 34. Superintendents to assist in binding apprentices.
- 35. Apprenticeship of inmate of industrial school.
- 36. Execution of indentures. Indentures exempt from stamp duty; and to be recorded.
- 37. Apprentice and indenture to be produced to Superintendent.
- 38. Indentures cancelled on sale of ship.

*Engagement of Seamen.*

- 39. By whom seamen may be engaged.
- 40. Receiving remuneration for providing employment.
- 41. Agreement with the crew. Particulars and form of agreement.
- 42. Agreement in the case of foreign-going ships.
- 43. Agreement in the case of home-trade ships.
- 44. Changes in crew to be reported.
- 45. Agreement to be produced periodically.
- 46. Copy of agreement to be conspicuously posted.
- 47. Offences as to agreement.
- 48. Alterations in agreement to be attested.
- 49. Proof of agreement by seamen.
- 50. Engagement of seamen abroad.

*Rating of Seamen.*

- 51. Rating of A.B.
- 52. Seamen to produce discharge.

*Rating of Greasers and Firemen.*

- 53. Rating of greasers and firemen.

The Shipping and Seamen Act, 1908—*continued.*

Page

*Complement of Crew.*

54. Ships to carry prescribed number of seamen, &c.

*Discharge of Seamen.*

55. Discharge from foreign-going ship to be before Superintendent.  
 56. Seamen entitled to discharge.  
 57. Offences as to discharge.

*Payment of Wages.*

58. Wages to be paid in presence of Superintendent.  
 59. Statement of wages to be given.  
 60. Deductions not allowed unless included in statement.  
 61. Rule as to payment of wages in foreign-going ships.  
 62. In home-trade ships.  
 63. Wages payable monthly.  
 64. Seamen to sign a release.  
 65. Superintendent may decide questions as to wages.  
 66. Superintendent may require production of documents.  
 67. Wages to be paid at the rate of British sterling.

*Advance and Allotment of Wages.*

68. Restrictions on advance-notes. Allotment-notes.  
 69. Allotment in favour of Savings-Bank.  
 70. Recovery of amount of allotment-note.  
 71. When payment to be made.

*Seamen's Money-orders.*

72. Seamen's money-orders may be issued.  
 73. Payment may be made if order not in payee's possession.  
 74. Fraudulent issue of money-order.

*Rights of Seamen in respect of Wages.*

75. Seamen engaged in New Zealand to be paid current wages.  
 76. Right to wages and provisions, when to begin.  
 77. Seamen not to contract out of any right.  
 78. Wages not to depend on earning freight.  
 79. Recovery of wages up to discharge. Where services terminated by wreck or illness.  
 80. Wages not to accrue during refusal to work or imprisonment.  
 81. Cost of procuring conviction may be deducted from wages.  
 82. Seamen discharged before voyage to be compensated.  
 83. Charges upon wages invalid.

*Mode of recovering Wages.*

84. Recovery of wages under £50.  
 85. Where wages exceed £50.  
 86. Seaman not to sue for wages abroad.  
 87. Master to have same remedies as seaman.

*Power of Court to rescind Contracts.*

88. Power to rescind contract between owner and seaman, or apprentice.

The Shipping and Seamen Act, 1908—*continued*.

Page

*Property of Deceased Seamen.*

- 89. Master to dispose of effects of deceased seaman. Entry in official log.
- 90. Notice to be given to Consul where death occurs abroad. Consul may require delivery of property. Master to account to Superintendent. Certificate of compliance.
- 91. Failure to comply.
- 92. Disposal of property not on board.
- 93. Property abroad to be sold and accounted for.
- 94. Recovery of wages, &c., of seamen lost with the ship.
- 95. Where seaman dies in New Zealand.
- 96. Where value less than £100 may be paid over without administration.
- 97. Where seaman leaves a will.
- 98. Rules as to creditors' claims.
- 99. Unclaimed wages.
- 100. Fraudulently obtaining property of deceased seaman.

*Reimbursement of Relief to Seamen's Families.*

- 101. Relief to seamen's families to be chargeable on wages.
- 102. Charge to be enforced on return of seaman.

*Leaving Seaman Abroad.*

- 103. When ship sold, &c., seamen to be sent home, or otherwise provided for.
- 104. Forcing seamen ashore a crime.
- 105. Seamen not to be left abroad except on certificate of official.
- 106. Wages to be paid when seaman left abroad on ground of inability.
- 107. When payment made to Consul.

*Distressed Seamen Abroad.*

- 108. Recovery of money advanced for distressed seaman.
- 109. Expenses to be paid out of Consolidated Fund.

*Provisions, Health, and Accommodation.*

- 110. Examination of provisions on complaint of crew.
- 111. Allowance for short or bad provisions.
- 112. Scale of medical stores. Medical stores to be kept according to scale. Anti-scorbutics. Supplying medical stores of bad quality.
- 113. Weights and measures to be provided.
- 114. Appointment of Medical Inspectors.
- 115. Examination of seamen by Medical Inspector.
- 116. Inspection of provisions on certain voyages.
- 117. Expense of medical attendance, maintenance, and burial of injured seaman.
- 118. Recovery of expenses.
- 119. Provision for seaman left ashore when incapacitated.
- 120. Medical officer to be carried on certain ships.
- 121. Accommodation of mates and engineers.
- 122. Accommodation of seamen.

*Facilities for making Complaint.*

- 123. Seamen to be allowed to go ashore to complain.

*Deaths and Accidents occurring at Sea.*

- 124. Inquiry into cause of death or accident at sea.

The Shipping and Seamen Act, 1908—*continued*.

Page

*Protection of Seamen from Imposition.*

- 125. Assignment or sale of salvage invalid.
- 126. Seamen's lodginghouses.
- 127. Lodginghouse-keepers overcharging seamen.
- 128. Lodginghouse-keepers soliciting seamen.
- 129. Persons not to go on board before final arrival of ship without permission.

*Provisions as to Discipline.*

- 130. Misconduct endangering ship or life.
- 131. Assault by officers.
- 132. Offences by seamen. Desertion. Absence without leave.
- 133. Deserter may be conveyed on board. Or brought before the Court. Arrest on insufficient grounds. Seaman may be put on board. Owner or agent may prosecute seaman.
- 134. Court may order deserter to be conveyed on board.
- 135. Offences against discipline. Quitting without leave before ship secured. Disobedience. Continued disobedience. Combining to disobey. Assault on officer. Damaging ship, stores, or cargo. Smuggling.
- 136. Other remedies not affected.
- 137. Wages to be paid up to date of arrest.
- 138. False statement as to last ship, or name.
- 139. Entry of offence in log.
- 140. Entry of desertion abroad to be produced.
- 141. Deserters list.
- 142. Proof of desertion.
- 143. Application of forfeited wages.
- 144. Disposal of wages forfeited.
- 145. Question of forfeiture, how determined.
- 146. Forfeiture on running agreement, &c.
- 147. Fines for misconduct, how recovered and applied.
- 148. Enticing to desert. Harbouring deserter. Stowaway.
- 149. Seamen compulsorily carried, and stowaways, to be subject to discipline.
- 150. Seamen undergoing imprisonment may be returned on board.

*On Change of Master.*

- 151. Documents to be handed over on change of master.

*Official Logs.*

- 152. Official logs to be kept. Entries to be made in due time. Entries, how to be signed. Penalties in respect of log.
- 153. Entries to be made in log.
- 154. Log to be delivered to Superintendent.
- 155. On transfer of ship, &c., log to be transmitted to Superintendent.
- 156. Chief engineer to keep an engine-room log.

*Mercantile Marine Offices.*

- 157. Minister may establish mercantile marine offices and appoint Superintendents. Duties of Superintendent.
- 158. Transactions before Superintendent may be dispensed with in certain cases.
- 159. Fees to be paid on discharges and engagements. Master may deduct part of fees from wages.

The Shipping and Seamen Act, 1908—*continued*.

Page

*Registration of Seamen.*

- 160. Registrar of Seamen. Registration office. Register of seamen.
- 161. Lists of the crew.
- 162. In case of transfer or loss of ship.
- 163. Transmission of documents to Registrar.
- 164. Documents in evidence, &c.
- 165. Regulations.

*Pleasure Yachts, Missionary Ships, and Fishing-boats.*

- 166. Pleasure yachts and missionary ships exempt from certain provisions.
- 167. Fishing-boats exempt from certain provisions.

## PART IV.

## AS TO STEAMSHIPS.

*General Equipment of Steamships.*

- 187. Fire-hose. Shelter for deck passengers. Safety-valve. Water and provisions.

## PART V.

## SHIPS PROPELLED BY OTHER POWER THAN STEAM, AND RESTRICTED-LIMIT STEAMSHIPS.

- 188. Provisions as to ships propelled by gas, oil, electricity, &c.
- 189. Provisions as to restricted-limit steamships.

## PART VI.

## NEW ZEALAND PILOTS.

- 190. Governor may appoint New Zealand pilots.

## PART VII.

## SAFETY.

*Prevention of Collisions.*

- 191. Owners and masters to observe collision regulations. Breach of regulations to imply wilful default. Liability for breach in case of collision.
- 192. Inspection for enforcing regulations. Fees for inspection.
- 193. Duties of master in case of collision.
- 194. Collision to be entered in official log.

*Report of Accidents and Loss of Ship.*

- 195. Accidents to be reported to Minister.
- 196. Notice to be given of apprehended loss of ship.

*Life-saving Appliances.*

- 197. Rules as to life-saving appliances.
- 198. Ship to be provided with life-saving appliances.
- 199. Breach of rules.
- 200. Enforcing rules.

The Shipping and Seamen Act, 1908—*continued.*

Page

*Adjustment of Compasses.*

201. Ships to have compasses adjusted.

*Boat-drill.*

202. Crew to be exercised in boat-drill monthly.

*Signals of Distress.*

203. Signals of distress to be provided. Using signals unnecessarily. Duty of master to assist ship flying signals of distress.

*Cables and Anchors.*

204. Anchors and chain cables to be tested.  
205. Manufacturers to place marks on anchors.

*Draught of Water, and Load-line.*

206. Ship's draught and freeboard to be recorded. Particulars to be entered in official log.  
207. Deck-lines to be marked.  
208. Load-line and disc to be marked. Position of disc. Ship whose load-line is submerged to be deemed unsafe.  
209. When foreign-going ship to be marked. Distance between deck-line and load-line to be stated. Lines to be kept marked.  
210. When home-trading ship to be marked.  
211. Offences relating to marks.  
212. Regulations as to marks.  
213. Application to foreign ships.

*Dangerous Goods.*

214. Carriage of dangerous goods restricted. Dangerous goods defined.  
215. Misdescribing dangerous goods.  
216. Master may refuse to carry suspected dangerous goods. Dangerous goods may be thrown overboard. Dangerous goods improperly sent may be forfeited.  
217. Passenger steamships not to carry explosives. Explosives defined.  
218. Saving as to similar provisions in other Acts.

*Grain Cargoes.*

219. Stowage of grain cargo. Grain and grain cargo defined.

*Ballast.*

220. Regulations as to ballast.

*Wool, Flax, Tow, or Skins.*

221. Condition of wool, flax, tow, or skins to be ascertained before shipment.

*Deck Cargoes.*

222. Space occupied by deck cargo liable to dues.  
223. Permit to carry deck cargo. Fee for permit.

*Unseaworthy Ships.*

224. Sending unseaworthy ship to sea.  
225. Implied obligation as to seaworthiness.  
226. Power to detain unseaworthy ships.



The Shipping and Seamen Act, 1908—*continued.*

Page

- 227. Unreasonable detention.
- 228. Security for cost may be required.
- 229. Application to foreign ships.
- 230. Complaint of unseaworthiness, &c., by crew.
- 231. Fees payable for survey of ship for seaworthiness.

*Overloading and Overcrowding.*

- 232. Regulations for preventing overloading or overcrowding.

## PART VIII.

## SHIPPING INQUIRIES AND COURTS.

*Inquiries as to Shipping Casualties.*

- 233. Cases where shipping casualty deemed to occur.
- 234. Preliminary inquiry to be held.
- 235. Formal investigation.
- 236. Casualty on fishing-vessel.
- 237. Loss of life not caused by shipping casualty.

*Power as to Certificates of Officers, &c.*

- 238. By whom certificate may be cancelled, &c.
- 239. Minister may investigate alleged misconduct, &c.
- 240. Supreme Court may remove master.
- 241. Certificate to be given up on cancellation, &c.
- 242. Governor may reissue, &c., certificate.

*Rehearing of Investigations and Inquiries.*

- 243. Inquiry may be reheard.

*Rules of Procedure.*

- 244. Minister may make rules of procedure on inquiries.

*Limitations as to Inquiries.*

- 245. Inquiry not to be held in certain cases.

*Courts of Survey.*

- 246. Constitution of Court.
- 247. Power and procedure of Court.
- 248. Governor may make rules of procedure.

*Scientific Referees.*

- 249. Appointment and powers of scientific referees.

*Payments to Officers of Courts.*

- 250. Governor may fix remuneration of officers of Court.

## PART IX.

## WRECK AND SALVAGE.

- 251. Wreck and salvage defined.

*Appointment of Receivers.*

- 252. Minister may appoint Receivers.

The Shipping and Seamen Act, 1908—*continued*.

Page

*Ships in Distress.*

- 253. Duty of Receiver where ship stranded or in distress.
- 254. Powers of Receiver in such case.
- 255. Right of passage over adjoining lands.
- 256. Receiver to suppress plunder and disorder.
- 257. In Receiver's absence, who to act.
- 258. Receiver to make inquiry.

*Dealing with Wreck.*

- 259. Rules to be observed by person finding wreck.
- 260. Articles washed ashore to be delivered to Receiver.
- 261. Receiver to give notice of wreck. Owner entitled to wreck on payment of expenses. Consul deemed owner of foreign ship.
- 262. Perishable goods may be sold immediately.
- 263. Removal of wreck.

*Unclaimed Wreck.*

- 264. Unclaimed wreck the property of the Crown may be sold. Where wreck claimed by more than one.
- 265. Delivery of wreck by Receiver not to prejudice title.

*Offences in respect of Wreck.*

- 266. Taking wreck out of New Zealand.
- 267. Boarding wreck without leave.
- 268. Obstructing the saving of wreck, or secreting or plundering same.
- 269. Receiver may seize concealed wreck. Unlawful possession.

*Salvage.*

- 270. Salvage services.
- 271. Payment of salvage.

*Procedure in Salvage.*

- 272. Disputes as to salvage, how settled.
- 273. By whom settled.
- 274. Appeal to Supreme Court.
- 275. When Justices are arbitrators.
- 276. Valuation of wreck.
- 277. Enforcing payment of salvage.
- 278. Receiver may sell wreck in case of non-payment.
- 279. Voluntary agreement to pay.
- 280. To whom salvage to be paid on dispute as to apportionment.
- 281. Supreme Court may apportion.

*Fees of Receivers of Wreck.*

- 282. Fees to be paid to Receiver.

*Duties on Wreck.*

- 283. Foreign wreck subject to duties as an importation. May be forwarded to destination.

## PART XI.

## LIABILITY OF SHIPOWNERS.

- 293. Owner, &c., not liable in certain cases.
- 294. Limitation of shipowners' liability for loss or damage to goods.
- 295. Limitation in case of loss of life, &c.

The Shipping and Seamen Act, 1908—*continued*.

Page

- 296. Tonnage, how calculated.
- 297. Court may consolidate claims.
- 298. Part owners to account in respect of damages.
- 299. Insurance of certain risks valid.
- 300. Bill of lading not to contain certain clauses.
- 301. Gold, silver, or diamonds, &c.
- 302. Short-delivery and pillage.
- 303. Bill of lading to be binding on master and owner.
- 304. Liability in certain cases not affected.

## PART XIII.

## LEGAL PROCEEDINGS.

*Prosecution of Offences.*

- 327. Punishment of crimes.
- 328. Offences under by-laws.
- 329. Justices of the Peace Act applied.
- 330. Right of appeal.
- 331. Limitation of proceedings.
- 332. Fine where not elsewhere provided.

*Jurisdiction.*

- 333. Offences, where deemed to be committed.
- 334. Jurisdiction over ships lying off coast.
- 335. Jurisdiction over offender found in New Zealand.

*Detention of Ship and Distress on Ship.*

- 336. Enforcing detention of ship.
- 337. Recovery of fines, &c., by distress.

*Evidence, and Service of Documents.*

- 338. Proof of document without attesting witness.
- 339. Service of document.
- 340. Proof of exemption, &c.

*Application of Fines.*

- 341. Application of fines.

## PART XIV.

## FOREIGN DESERTERS.

- 342. Provisions of this Part not to be enforced except by desire of nation to which foreign ship belongs. After notification in *Gazette* provisions may be enforced.
- 343. Interpretation.
- 344. Foreign seamen deserting, &c., may be apprehended by warrant.
- 345. Also without warrant.
- 346. Punishments. Desertion. Assaulting officers. Disobedience or neglect of duty. Continued disobedience or neglect of duty. Combining to disobey or neglect duty, &c.
- 347. Power to order convicted seamen to be put on board.
- 348. Ships or places may be searched.
- 349. Harbouring deserters, &c.
- 350. Officer having charge of police may put constables on board ships.

The Shipping and Seamen Act, 1908—*continued*.

Page

- 351. Approaching ship in boat after being duly warned.
- 352. Attesting witness of ship's articles need not be called.
- 353. Fines how recoverable, and service of summons how to be made.
- 354. Expenses to be paid by master.

## The Shops and Offices Act, 1908 . . . . . 416

- 1. Short Title. Enactments consolidated. Savings.
- 2. Interpretation.

## SHOPS.

*Hours of Employment, &c.*

- 3. Limit of employment of shop-assistants.
- 4. Hour of commencement of employment.
- 5. Late closing on Christmas Eve and New Year's Eve.
- 6. Hours of employment.
- 7. Special provision as to hours of employment.
- 8. Sitting-accommodation for women.

*Payment of Wages.*

- 9. Wages must be paid.

*Weekly Half-holiday.*

- 10. "Separate district." "Combined district." Neighbouring district may become part of combined district.
- 11. Shops to close on statutory closing-day.
- 12. Appointment of statutory closing-day in separate districts.
- 13. In combined districts.
- 14. Proceedings of conference.
- 15. When Minister may appoint statutory closing-day.
- 16. Notice of statutory closing-day to be gazetted.
- 17. Poll of electors to determine statutory closing-day.
- 18. Excepted shops.
- 19. Special holidays.
- 20. When shop deemed not to be closed.
- 21. In case of shop and factory combined.
- 22. Wages to be paid for half-holiday.
- 23. Assistants in hotels to have half-holiday.
- 24. Hairdresser who lets his chairs.

*Closing by Requisition.*

- 25. Fixing closing-hours of shops.

*As to Hawkers.*

- 26. Hawkers deemed to be "occupiers."

## OFFICES.

*Closing-hour for Offices.*

- 27. Office hours.
- 28. Provision for closing on statutory closing-day.
- 29. Wages to be paid for half-holiday.

*Employment of Office-assistants.*

- 30. Employment after office hours. Exemptions. Extra-time book.

The Shops and Offices Act, 1908—*continued*.

Page

## SANITATION OF SHOPS AND OFFICES.

31. Sanitary rules.
32. In food and clothing shops.
33. Proceedings under other Acts.
34. Inspector's requisitions.

## OFFENCES AND PROCEDURE.

35. Occupier to comply with rules and requisitions.
36. Forgery and false entries.
37. Employment of assistant after prescribed time.
38. Evidence of employment.
39. Where no specific fine imposed.
40. Proceedings to be before Magistrate alone.
41. Liability of other person in fault.
42. Magistrate may order work to be done.
43. Proceedings by Inspector.
44. Liability to fine does not relieve from payment of wages.

## MISCELLANEOUS.

45. Inspector to see Act carried out.
46. Inspectors' powers.
47. Regulations.
48. Fees and fines payable to Public Account.
49. Commercial travellers excepted from Act.
50. Exception as to tending horses.

## The Trade-unions Act, 1908 . . . . . 439

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.

*Criminal Provisions.*

3. Trade-union not criminal.
4. Trade-union not unlawful.
5. Trade-union contracts when not enforceable.
6. Certain Acts not to apply to trade-unions.
7. Trade-unions to be subject to section 71 of Friendly Societies Act.

*Registered Trade-unions.*

8. Registry of trade-unions.
9. Buildings for trade-unions may be purchased or leased.
10. Property of trade-unions vested in trustees.
11. Provision in case of absence, &c., of trustee.
12. Actions by or against trustees.
13. Limitation of responsibility of trustees.
14. Treasurer of trade-union to account.
15. Punishment for withholding money.

*Registry of Trade-unions.*

16. Registrar of trade-unions. Annual report to Governor.
17. Regulations for registry.
18. Rules of registered trade-unions.
19. Registered office of trade-union.
20. Withdrawal or cancelling of certificate.
21. Membership of unions.

The Trade-unions Act, 1908 —*continued*.

Page

22. Nominees of deceased members may receive under £50.
23. Change of name.
24. Amalgamation.
25. Registration of changes and amalgamations.
26. Dissolution.
27. Failure to give notice.
28. Annual returns to be prepared as Registrar may direct.
29. Circulating false copies of rules, &c.

*Miscellaneous.*

30. Summary proceedings for offences, fines, &c.
31. Governor may make regulations.
32. Governor may fix fees.
33. Expenses of Act.
34. Proof of instruments.

## The Wages Protection and Contractors' Liens Act, 1908 .. 451

1. Short Title. Enactments consolidated. Savings.

## PART I.

## PROTECTION OF WAGES.

2. Interpretation.
3. Workers employed in manual labour to be paid weekly.
4. Wages to be first charge on money due to or in hands of contractor.
5. Assignment of money due or received under contract to have no effect until wages paid to workers.
6. Moneys received by contractor not to be attached, and to be applied in payment of wages due.
7. Contractor to keep accounts and to produce same to workers.
8. Employer not to pay contractor in advance.
9. Worker whose wages are in arrear may attach moneys in hands of employer.
10. Worker obtaining judgment against the contractor. Court may order employer to pay him.
11. Employer to pay worker when ordered.
12. Workers to be paid according to priority of notice. Notices served within seven days deemed to be simultaneous.
13. Simultaneous notices to rank equally among themselves.
14. Employer served with notice liable only for amount due by him to contractor.
15. On failure to pay, worker may sue person served with notice.
16. On satisfaction of demand, attachment of moneys to cease to operate.
17. Worker on payment to sign a discharge.
18. Other remedies not to be affected or rights between parties varied.
19. Not to apply to personal chattels in possession of worker.
20. Power of Court to determine all questions, &c.
21. Court may award costs.
22. Rules of Court to apply. Power to Governor to make rules.
23. Service of orders, notices, &c.
24. Offences. When agent of contractor liable. Employer or contractor exempt from liability on conviction of actual offender.
25. Workers in service of subcontractor to have same rights and remedies as workers in service of contractor against employer.
26. Fines to be recovered summarily.

Wages Protection and Contractors' Liens Act, 1908—*continued*. Page*Attachment of Wages.*

27. No order to be made attaching wages. Exception. Costs.

## PART II.

## TRUCK.

28. Interpretation.  
 29. Wages to be payable in money. No deduction for interest. Contracts to be void if in contravention of this section.  
 30. No contract to stipulate as to mode of spending wages.  
 31. All wages to be paid in money.  
 32. No set-off to be allowed for goods supplied to worker by employer.  
 33. Employer not to have action for goods supplied to worker.  
 34. No deduction from wages for sharpening or repairing tools.  
 35. No money to be received or deducted from wages for accident insurance policies. Moneys so received or deducted may be recovered.  
 36. Payment of wages may be made by cheque. Remedies of worker.  
 37. Service of legal process.  
 38. Breaches of this Part of Act.  
 39. Consent of worker no defence.  
 40. When agent of employer liable. Employer exempt from liability on conviction of actual offender.  
 41. Fines recoverable summarily.  
 42. Provisions as to second and third offences.  
 43. If no evidence of a previous conviction, offence deemed to be separate.  
     Limit of time for prosecution.  
 44. Evidence of a previous conviction.  
 45. Partner not to be liable in certain cases.  
 46. Judgment and execution against partners.  
 47. This Part of Act not to apply in certain cases.

## PART III.

## CONTRACTORS' AND WORKERS' LIENS.

48. Interpretation.

*Declaration of Rights of Lien and Charge.*

49. Lien upon land and chattels for labour.  
 50. Owner standing by.  
 51. Charge in favour of subcontractors.  
 52. Charge in favour of workers.  
 53. Provision in case of mortgaged land.  
 54. Priority of liens.

*Lien or Charge, how established.*

55. Notice of claim of lien.  
 56. Notice of claim of charge.  
 57. Form of notice of lien or charge.

*Duty and Obligations of Employer or Superior Contractor.*

58. Consequences of claim of lien or charge.  
 59. Payments up to three-fourths before notice given to operate as discharge. One-fourth to be retained for thirty-one days.  
 60. Contractor to give notice to employer of all subcontracts. Fine for non-compliance.

Wages Protection and Contractors' Liens Act, 1908—*continued.*

Page

*Enforcement of Lien or Charge.*

61. If notice not followed by payment, proceedings may be taken to enforce lien.
62. Summary procedure.
63. Jurisdiction of Magistrate's Court. District Court. Supreme Court.
64. Appeal.
65. Costs.
66. Form of procedure.
67. Form of claim.
68. Service of summons.
69. Payment into Court by person liable.
70. In disputed cases owner may by payment into Court release property from lien.
71. Protection of property.
72. Several claims for wages may be joined.<sup>†</sup>
73. Effect of payment under order of Court.

*Remedies\* against Land.*

74. Registration of lien. Land under Land Transfer Act. Notice. Land not under Land Transfer Act.
75. Registration fee.
76. When claim to be registered.
77. Death of lien-holder.
78. Discharge of liens.
79. Cost of registering discharge.
80. Action by lien-holders for joint benefit.
81. Consolidation of proceedings.
82. Prosecution of claim when plaintiff dies, &c.
83. Time when sale may be made.
84. Court may direct sale and removal of chattel.
85. Costs.
86. Registry may be annulled.
87. Execution upon a sale ordered by District Court or Magistrate's Court.
88. Person prejudicially affected may apply to Court.
89. Vexatious notice of claim.
90. Costs.

*General Provisions.*

91. Special provision for enforcing lien on personal chattels.
92. Affidavits to be sworn without fee.
93. Saving of other remedies.
94. Certain lands not affected.

*Special Provision relating\* to Owners of Threshing-machines.*

95. Lience responsible to contractor for cost of threshing grain, if lien enforced.

The Workers' Compensation Act, 1908      ..      ..      .. 480

1. Short Title.
2. Interpretation.

## PART I.

## COMPENSATION.

3. Employer liable to pay compensation for accidents to worker.
4. Amount of compensation.



The Workers' Compensation Act, 1908—*continued*.

Page

5. Compensation may be by lump sum or weekly payment.
6. How average weekly earnings calculated.
7. Special provision for wharf labourers, &c.
8. Compensation for injuries mentioned in Second Schedule.
9. Compensation for permanent incapacity when worker under twenty one.
10. Compensation for certain diseases arising out of employment.
11. Act to apply only to accidents happening in New Zealand or on board New Zealand ships.
12. With certain specified exceptions, Act to bind the Crown.
13. Principal and contractor both deemed employers for purposes of this Act.
14. No abatement of compensation if claimant insured.
15. No compensation where injury due to misconduct.
16. Effect on compensation of unreasonable refusal to submit to medical or surgical treatment.
17. Worker may agree with employer that no compensation payable on account of disease or injury from which worker has suffered prior to employment. Agreement to be approved by Magistrate.
18. With certain specified exceptions, liability not affected by agreement.

## PART II.

PROCEDURE.<sup>1</sup>

19. Proceedings to be in Court of Arbitration.
20. Procedure to be determined by regulations under Act.
21. Proceedings in case of death of worker.
22. Recovery of expenses of medical attendance or of funeral of deceased worker.
23. Court may order joinder of plaintiffs or of defendants.
24. Notice of accident to be given to employer.
25. Limitation of actions under Act.
26. Declaration of liability by employer in certain cases.
27. Order or agreement for weekly payment may be reviewed by Court.
28. Order may be set aside or varied.
29. Apportionment of compensation.
30. Compensation in case of death to be paid into and applied by Court.
31. Moneys to be invested by Public Trustee.
32. Court to direct mode of weekly payment.
33. Apportionment of compensation may be varied by order of Court.
34. Court to direct payment where compensation due to person under twenty-one, or of unsound mind.
35. Payment to representative.
36. Costs in discretion of Court.
37. Solicitor's claim to costs.
38. Court may direct payment of interest where undue delay in payment of compensation.
39. Court may require security for costs from plaintiff outside New Zealand.
40. Court to direct mode of deduction from compensation.

## PART III.

## MISCELLANEOUS PROVISIONS.

41. Compensation for injury in mine, &c., to be an equitable charge upon employer's interest therein.
42. Liability to be a charge upon insurance moneys payable as compensation when employer dies insolvent or becomes bankrupt.

The Workers' Compensation Act, 1908—*continued.*

3

43. Act not to affect independent liability.
  44. Indemnity of employer in certain cases.
  45. Agreement for compensation binding.
  46. Procedure where action brought independently of this Act.
  47. Compensation claims provable in bankruptcy.
  48. Claim for compensation in case of death not barred by any judgment obtained by worker in respect of accident causing death.
  49. Cause of action to survive person liable to pay compensation.
  50. Right of dependant to compensation to survive dependant.
  51. Injured worker to submit himself for medical examination if so required.
  52. Medical referees.
  53. Reciprocal application of Act outside New Zealand.
  54. Compensation moneys not assignable.
  55. Moneys paid by employer on account of injury to worker to be deducted from compensation.
  56. Superannuation Acts not affected.
  57. Mining contractors deemed to be workers.
  58. Contracting-out under scheme for compensation approved by Arbitration Court.
  59. Regulations.
  60. Repeals.
  61. Condition of accident insurance policies.
  62. Rule as to common employment abolished.
  63. Provision where insurer contests claim.
- Schedules.

The Workers' Dwellings Act, 1908 . . . . . 509

1. Short Title. Enactments consolidated. Savings.
2. Interpretation.
3. Land may be set apart for the purposes of this Act.
4. Minister may erect workers' dwellings. Cost of erection, &c.
5. Disposal of same by lease.
6. Application.
7. Qualifications. Preference to applicant who has the lesser income.
8. Rent.
9. Provisions as to leases.
10. Modes of acquiring the freehold.
11. Acquiring the freehold by insurance.
12. When lessee entitled to certificate of title.
13. Residence of owner necessary.
14. Restrictions on disposition of lease or freehold.
15. Surrender of lease.
16. Management of workers' dwellings may be vested in local authority.
17. Thereupon the unpaid capital value to be deemed to be a loan.
18. Moneys received to go to Public Account.
19. Regulations.
20. Return to be laid before Parliament.

# NEW ZEALAND LABOUR LAWS.

---

## THE ACCIDENT INSURANCE COMPANIES ACT, 1908.

---

1908, No. 2.

AN ACT to consolidate certain Enactments of the General Assembly relating to Accident Insurance Companies.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

### Short Title.

1. (1.) The Short Title of this Act is “ The Accident Insurance Companies Act, 1908.”

### Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

### Savings.

- (a.) All statements, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

### Interpretation.

2. In this Act, if not inconsistent with the context,—

“ Accident ” means accident resulting in loss of life or in bodily injury :

“ Accident insurance ” includes the following, whether the contract is one of primary insurance or of reinsurance, and whether the premium payable is a sum certain, or consists of sums uncertain or variable in time, number, or amount :—

(a.) Insurance against accident, disease, disability, or any change of physical or mental condition ;

(b.) Insurance or indemnity against employers’ liability, whether under statutory law or common law ;

(c.) Insurance or indemnity against charges under section twenty of “ The Workers’ Compensation for Accidents Act, 1908.” taking precedence of incumbrances, mortgages, or charges lawfully existing ; and

(d.) Generally any contract in the nature of any of the foregoing whereby the benefit under the contract accrues payable on or after the occurrence of some contingent event :

“ Company ” means any person or association, whether incorporated or otherwise, not being established under any Act relating to friendly societies, who issues or is liable under accident-insurance policies in New Zealand, and includes companies now established in or out of New Zealand, and includes also mutual associations as well as proprietary :

“ Minister ” means the Minister of Finance.

Company to prepare annual statement.

3. (1.) Every company shall at the expiration of each of its financial years prepare a statement of its accident-insurance business transacted in New Zealand during such year, and of its balance-sheet at the close of such year, in the form in the Second Schedule hereto.

(2.) Where a company transacts any other class of insurance business besides accident insurance, the statement shall include an explanation of the manner in which the expenditure common to the business as a whole has been apportioned amongst the different classes of business.

Printed statement to be deposited with Minister.

4. Every such statement shall be signed by the principal officer of the company managing the accident-insurance business in New Zealand, and shall be printed ; and the original so signed, together with three printed copies thereof, shall within four months after the close of the company’s financial year be deposited with the Minister.

Further information to be given if required.

5. The Minister is hereby empowered to ask for such additional explanation of any item in the statement deposited as he deems necessary for the purposes of this Act.

Statements to be laid before Parliament.

6. The Minister shall lay annually before Parliament copies of all statements deposited with him.

Penalty in default.

7. (1.) If any company makes default in duly complying with the requirements of this Act, or with any request the Minister makes under section five hereof, and continues in default for seven days after notice by the Minister, then in every such case the company and also its attorney, general agent, or other agent shall be severally liable to a fine not exceeding fifty pounds for every day during which such default continues after such notice.

(2.) If any such default as aforesaid is continued for a period of three months the Minister may, by notice in the *Gazette*, prohibit the defaulting company from carrying on business in New Zealand, either absolutely or for such time as he thinks fit.

(3.) If any company, or any person as attorney, general agent, or other agent of such company, or otherwise for or on behalf of such company, after the publication of such notice as last aforesaid, receives any application for insurance, or accepts any premium for insurance, or otherwise carries on the business of such company in New Zealand, then, in addition to and irrespective of the penalty hereinbefore provided, such company and person shall be severally liable to a fine of one hundred pounds for each and every act done in breach of this provision.

Penalty for signing false statement.

8. Every person who signs or deposits any statement required by this Act, knowing the same to be false in any particular, is liable to a fine not exceeding fifty pounds.

Penalties recoverable summarily.

9. All fines imposed by this Act are recoverable in a summary way.

Commissioner's powers.

10. The powers of the Commissioner under "The Government Accident Insurance Act, 1899," shall be deemed to have at all times included power to enter into contracts of accident insurance as defined by this Act.

Policies free of stamp duty.

11. Accident-insurance policies shall be exempt from stamp duty, and the exemption shall apply to every such policy heretofore issued and not stamped.

## SCHEDULES.

## FIRST SCHEDULE.

## ENACTMENTS CONSOLIDATED.

1902, No. 43.—“The Accident Insurance Companies Act, 1902.”

## SECOND SCHEDULE.

## STATEMENT AND BALANCE-SHEET OF ACCIDENT INSURANCE COMPANY.

<i>Revenue Account of the</i>		<i>for the Year ending</i>	
	£ s. d.		£ s. d.
Amount of accident funds at beginning of the year ..		Claims after deducting reinsurance .. ..	
Premiums received after deduction of reinsurance premiums ..		Interest .. ..	
Interest, dividends, and rents ..		Commission .. ..	
Other receipts [ <i>Accounts to be specified</i> ] .. ..		Salaries .. ..	
		Expenses of management ..	
		Dividends and bonuses to shareholders .. ..	
		Other payments [ <i>Accounts to be specified</i> ] .. ..	
		Appropriated to reserve for unearned premiums .. ..	
		Amount of accident funds at end of year .. ..	
	<u>£</u>		<u>£</u>

*Balance-sheet on the*

<i>Liabilities.</i>	£ s. d.	<i>Assets.</i>	£ s. d.
Shareholders' capital paid up (if any) .. ..		Mortgages on property within New Zealand .. ..	
Accident funds (as per Revenue Account) .. ..		Mortgages on property outside New Zealand .. ..	
Reserve for unearned premiums ..		Other investments [ <i>Securities to be specified</i> ] .. ..	
Claims outstanding .. ..		Loans on personal security ..	
Other sums owing by the company [ <i>Accounts to be specified</i> ] ..		Agents' balances .. ..	
		Outstanding premiums .. ..	
		Outstanding interest .. ..	
		Interest accrued but not due ..	
		Cash—	
		On deposit .. ..	
		In hand and on current account .. ..	
		Other assets [ <i>To be specified</i> ] ..	
	<u>£</u>		<u>£</u>

## EXTRACTS FROM "THE BANKING ACT, 1908."

1908. No. 11.

\* \* \* \* \*

*Bank Holidays.*

## Bank holidays.

23. The several days mentioned in the Third Schedule hereto (which days are herein referred to as "bank holidays") shall be kept as close holidays in all banks in New Zealand :

Provided that :—

- (a.) Where any bank holiday falls on a Sunday, the day next following shall be observed as a bank holiday within the meaning and for the purposes of this Act :
- (b.) If such following day is also a bank holiday, then the next following day which is not a bank holiday shall also be observed as a bank holiday.

## Special bank holidays.

24. With the previous consent in writing of the Minister of Finance, but not otherwise, the Managing Director, General Manager, or other chief officer in New Zealand for the time being of any bank may, by writing under his hand, appoint any day or portion of a day as a special bank holiday or part holiday at the bank under his direction or control, and such holiday or part holiday may be observed at any specified place or places in which the bank carries on business within New Zealand, subject to the provisions following, that is to say :—

- (a.) It shall not be lawful at any time to appoint more than two consecutive days as holidays, or more than three consecutive days as part holidays :
- (b.) Any day or portion of a day so appointed shall be notified by public advertisement, purporting to be by proper authority, not less than three times within the ten days immediately preceding such day, in some newspaper circulating in the provincial district in which the holiday or part holiday is to be observed :
- (c.) A copy of such notice shall be kept visibly exposed in a front window or on or near the main entrance-door of the building in which the bank carries on its business, at the place or places where the holiday or part holiday is to be observed, for at least three days before such day :

- (d.) The production of a newspaper containing any such advertisement shall be *prima facie* proof that the holiday or part holiday was duly appointed to be observed at the place or places specified in that advertisement :
- (e.) Such day shall be a special bank holiday or part holiday only at the particular bank or banks specified in the notice hereby required :
- (f.) Every special bank holiday or part holiday shall be deemed to be a bank holiday within the meaning of this Act at the place or places at which it is appointed as aforesaid to be observed, but at no other :
- (g.) Bills due on a part holiday shall be payable on that day within the business hours during which the bank is open.

Employees not to be employed on bank holidays.

25. (1.) No employee of a bank shall be employed during any part of a bank holiday or special bank holiday except for the purpose of dealing with correspondence and urgent matters of the day.

(2.) Every bank that commits a breach of this section is liable for each offence to a fine not exceeding five pounds in respect of each employee so employed.

(3.) This section shall not apply in the case of any person employed on the day, or any one of the seven days immediately preceding or following the day, upon which the bank balances its books for the half-year, nor in the case of any caretaker of the bank premises :

Provided that not less than seven days' notice in writing of the day on which the bank balances its books as aforesaid shall be given to the Inspector of Factories.

\* \* \* \* \*

### THIRD SCHEDULE.

#### BANK HOLIDAYS.

New Year's Day.	The 23rd day of April, being Saint George's Day.
Good Friday.	The 30th day of November, being Saint Andrew's Day.
The day after Good Friday.	The Sovereign's Birthday.
Easter Monday.	The Prince of Wales's Birthday.
Whit Monday.	The second Wednesday in October, being Labour Day.
Christmas Day.	
The day after Christmas Day.	
The 17th day of March, being Saint Patrick's Day.	



# EXTRACTS FROM "THE BANKRUPTCY ACT, 1908."

## 1908, No. 12.

\* \* \* \* \*

Clerks, &c., may prove for salary, &c., beyond preferential claim.

112. Any clerk, servant, artisan, labourer, or workman may, in addition to his preferential claim for salary or wages as hereinafter provided, prove and obtain a dividend on any claim he may have for salary and wages beyond that hereinafter made a preferential claim.

\* \* \* \* \*

### *Application of Assets when realised.*

Moneys to be applied by Assignee in payment of costs and expenses of Assignee.

120. The moneys received by the Assignee by the realisation of the property of a bankrupt shall be applied by him as follows :—

(a.) First, in payment of—

(i.) All costs, charges, allowances, and expenses properly incurred by or payable by the Assignee in the execution of his office ;

Costs of petitioning creditor.

(ii.) The costs and expenses incurred by a creditor in procuring the order of adjudication, inclusive of and subsequent to the preparation and filing of the petition ;

Costs of petitioning debtor.

(iii.) The costs and expenses incurred by a debtor in filing his petition, and other matters consequent thereon :

Supervisor's and Assignee's commission.

(b.) Secondly, in payment of all commission payable to the supervisor and Assignee respectively, as specified in the Third Schedule hereto :

Rent due, on certain conditions.

(c.) Thirdly, in payment of any rent for any period not exceeding six months actually due and payable by the bankrupt at the date of adjudication, if there were at that date goods on the premises in respect of which the rent was payable liable, but for the bankruptcy, to distress for rent :

Provided that no person entitled to a preference claim for rent hereunder shall be entitled to more than the value of such goods so distrainable, such value to be fixed by the Court in a summary way in the event of the Assignee and landlord not agreeing as to the amount :

Provided also that goods subject to a valid and duly registered security under " The Chattels Transfer Act, 1908,"

shall not be deemed to be liable to distress for the purposes of this section unless they realise upon sale by the secured creditor more than the amount secured by such security, in which case the right of priority shall attach to the amount paid to the Assignee of the estate :

Provided further that goods which the bankrupt is entitled to select under the next succeeding section shall not be deemed to be liable to distress for the purposes of this section :

Wages of clerk or servant.

(d.) Fourthly, in payment of—

(i.) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt during the whole or any part of the four months immediately preceding the date of the filing of a debtor's petition, or the filing of a creditor's petition on which an order of adjudication is made, not exceeding one hundred pounds ;

Wages of artisan.

(ii.) All wages of any artisan, labourer, or workman, whether skilled or unskilled, whether payable for time or piecework, in respect of services rendered to the bankrupt during the whole or any part of the four months immediately preceding the filing of a debtor's petition, or the filing of a creditor's petition on which an order of adjudication is made, not exceeding fifty pounds ;

Fee payable to apprentice.

(iii.) Any sum ordered by the Court to be paid out of the bankrupt's estate to or for the use of an apprentice or an articulated clerk under section eighty-three hereof :

Between themselves the debts mentioned in this subsection shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves :

Provable debts.

(e.) Fifthly, in payment, *pari passu*, of all debts provable and proved in the bankruptcy :

Interest on proved debts.

(f.) Sixthly, in payment of interest from the date of adjudication on all debts proved in the bankruptcy at the rate for the time being in force in the case of judgment debts in the Supreme Court :

Surplus to bankrupt.

(g.) Seventhly, in payment to the bankrupt of any surplus.

\* \* \* \* \*

# EXTRACTS FROM "THE COAL-MINES ACT, 1908," 1908, No. 24.

AN ACT to consolidate certain Enactments of the General Assembly relating to Coal-mines.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is " The Coal-mines Act, 1908."

\* \* \* \* \*

- (3.) This Act is divided into Parts, as follows :—

PART I.—Coal-mining Leases. (Sections 4 to 105.)

PART II.—State Coal-mines. (Sections 106 to 128.)

## Interpretation.

2. In this Act, if not inconsistent with the context,—

" Agent " means any person having for the time being, on behalf of the owner, the care and direction of the mine :

" A week " shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night :

" Boy " means a male person under the age of thirteen years :

" Certificate of competency " means a certificate of competency granted to a mine-manager by the Board of Examiners under this Act, or any former Act relating to coal-mines, or to an engine-driver by such Board under any such former Act, or by the Board of Examiners under " The Inspection of Machinery Act, 1908 " :

" Certificate of service " means a certificate of service granted to a mine-manager or engine-driver by the Board of Examiners under any such former Act as aforesaid :

" Coal " means anthracite, black coal, brown coal, shale, and includes lignite and every other mineral used for fuel :

" Coal-mine " or " mine " means every colliery and coal or shale mine, whether in actual work, or discontinued, or exhausted, or abandoned ; and every shaft, pit, level, and inclined plane in course of being made or driven for commencing or opening any such colliery or coal-mine, and all works belonging thereto respectively :

" Coal-mining lease " or " lease " means a lease of land granted under this Act, or any of the enactments mentioned in the First Schedule hereto, for coal-mining purposes :

- “Commissioner of Crown Lands” or “Commissioner” means the Commissioner of Crown Lands for any land district exercising jurisdiction in such part thereof as is not included within any mining district:
- “Engine-driver” means a person in the actual charge of the winding-engine or winding-machinery:
- “Inspector of Mines” or “Inspector” means an Inspector of Mines appointed for the purposes of this Act:
- “Machinery” means and includes steam and other engines, boilers, furnaces, winding and pumping gear, whims, windlasses, chains, trucks, tramways, tackle, blocks, ropes, tools, and all appliances of whatsoever kind used for the extraction of coal or for any coal-mining purpose:
- “Manager” or “mine-manager” means the person having the control and daily supervision of a mine:
- “Mining district” means a mining district constituted under “The Mining Act, 1908”:
- “Minister” means the Minister of Mines:
- “Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; and, in the case of a company incorporated under any Act for the registration of mining companies, or relating to joint-stock companies, includes the manager of such company, and in any other case the person having the management of mining operations carried on in a mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability:
- “Permit” means an authority in writing under the hand of the Inspector:
- “Plan” includes a map and section, and a correct copy or tracing of any original plan as so defined:
- “Prescribed” means prescribed by this Act or by any regulations made thereunder:
- “Warden” means a Warden appointed under “The Mining Act, 1908,” for any mining district:
- “Youth” means a male person not under the age of thirteen years and under the age of eighteen years.

Bed of river deemed vested in Crown.

3. (1.) Save where the bed of a navigable river is or has been granted by the Crown, the bed of such river shall remain and shall be deemed to have always been vested in the Crown; and, without limiting in any way the rights of the Crown thereto, all minerals (including coal) within such bed shall be the absolute property of the Crown.

(2.) For the purpose of this section—

“Bed” means the space of land which the waters of the river cover at its fullest flow without overflowing its banks;

“Navigable river” means a river continuously or periodically of sufficient width and depth to be susceptible of actual or future beneficial use to the residents (actual or future) on its banks, or to the public, for the purpose of navigation by boats, barges, punts, or rafts; but nothing herein shall prejudice or affect the rights of riparian owners in respect of the bed of non-navigable rivers.

\* \* \* \* \*

## REGULATION OF MINES.

### Inspectors.

23. (1.) The Governor may from time to time appoint such competent persons as he thinks fit to be Inspectors of Mines under this Act, and may from time to time allocate to such persons respectively localities within which they shall exercise their functions.

(2.) All persons who at the date of the coming into operation of this Act are Inspectors of Mines under “The Coal-mines Act, 1905,” shall be and shall be deemed to be Inspectors of Mines under this Act.

(3.) No Inspector under this Act shall be allowed to hold any interest whatever in any mine in the locality in which he is authorised to act.

(4.) No Inspector shall act or practise as a land agent or as a manager, viewer, or agent, or mining engineer, or a valuer of land, or arbitrator in any matter of dispute arising between owners of mines, or be employed in any way in any mine otherwise than in his official capacity under this Act.

Concurrent powers of Inspectors of Machinery and Inspectors of Mines.

(5.) Nothing in this Act shall be deemed to abridge or annul any of the provisions of “The Inspection of Machinery Act, 1908,” or to affect the duties of any Inspectors appointed under that Act in relation to the inspection in mines of machinery and boilers coming within the operation of that Act; but every Inspector of Mines shall have the same powers as the aforesaid Inspectors, and it shall be their duty regularly to inspect all machinery in mines, excepting steam-engines and boilers, and to see that such machinery is safe in all its parts and in good working-order.

(6.) Every Inspector of Mines shall be the holder of a first-class mine-manager's certificate.

Mine-manager.

24. (1.) Every coal-mine shall be under the control and daily supervision of the mine-manager, and the owner or agent of every such mine shall nominate himself or some other person (not being a contractor for getting the mineral in such mine, or a person in the employ of such contractor) to be the manager of such mine.

(2.) Every coal-mining company, whether registered or co-operative, shall appoint and continue to have a manager who shall be deemed the mine-manager of the company under this Act.

(3.) The name and address of every manager for the time being shall be notified in writing to the Inspector, and also to the Minister, and no person shall be so appointed who has not the management of the mining operations carried on by such company.

(4.) If any mine is worked for more than three days without there being such a manager for that mine as is required by this section, the owner and agent of such mine shall each be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds for every day during which such mine is so worked.

Deputy manager.

(5.) If any mine-manager is incapacitated from performing his duties, or is about to be absent from the mine for more than three days, he or the agent of the mine shall in writing appoint some person, approved by the Inspector, to act as deputy manager during such incapacity or absence; but no such deputy shall act for more than fourteen days unless authorised so to do by the Inspector.

Name of manager to be posted at mine.

(6.) The name of the manager of the mine for the time being shall be posted and kept posted at the pit-mouth of the mine.

Board of Examiners.

25. (1.) The Director of the Geological Survey of New Zealand, the Surveyor-General, the Inspecting Engineer of Mines, an Inspector of Machinery, and three other persons who shall be the holders of mine-managers' certificates, who shall have not less than ten years' experience in coal-mining, to be from time to time appointed by the Governor, shall form a Board of Examiners to conduct examinations for mine-managers' certificates for the purposes of this Act.

(2.) One of the members of the Board, to be named by the Governor, shall be Chairman.

(3.) The Board shall conduct all examinations according to regulations to be prescribed by the Governor, who may also appoint a Secretary to the Board.

## Application for certificate.

26. (1.) Every applicant for a mine-manager's certificate of competency shall make his application in manner as may be prescribed by regulations, and shall forward with such application the sum of one pound sterling as a fee for such certificate; and such fee shall entitle the applicant to come up for another examination after a period of three months without further charge in the event of his failing to pass his first examination.

## First- and second-class certificates.

(2.) There shall be two grades of mine-managers' certificates—namely, a first-class certificate and a second-class certificate.

(3.) Notwithstanding anything in this Act, the Board of Examiners may grant or refuse a certificate of competency upon any grounds it deems advisable.

## Mine-manager to be holder of certificate or permit.

27. (1.) Every person employed or acting in the capacity of a mine-manager of a mine shall be the holder of a first-class certificate where more than twenty men are employed, and of a second-class certificate where more than six but not more than twenty men are employed; and where six men or less are employed he shall be the holder of a permit from the Inspector.

(2.) Every person who seeks to obtain a mine-manager's certificate shall pass an examination previous to obtaining such certificate, to show that he possesses the necessary knowledge and requirements in working a mine, and shall also be the holder of a certificate from his previous employers showing that he has been actually engaged in underground workings in a mine for a period of not less than five years; and shall forward the last-mentioned certificate, together with his application for examination, as hereinbefore mentioned.

## Certificates from beyond New Zealand.

28. The Board of Examiners shall cause a certificate of competency as mine-manager to be granted, without previously undergoing an examination as aforesaid, to any person of good repute producing a certificate of competency from any duly constituted and recognised authority outside New Zealand, and satisfying the Board of his *bona fides*, and on paying the fee of ten shillings for such certificate.

## Engine-drivers' certificates.

29. (1.) Every person employed or acting in the capacity of engine-driver who is in charge of any winding-engine or any winding-machinery by means of which respectively persons are brought up or passed down or along any shaft, pit, or inclined plane, or level, or which is used in sinking any shaft, shall be the holder of an engine-

driver's certificate issued by the Board under the Acts repealed by "The Coal-mines Act, 1905," or by the Board referred to in section forty-eight of "The Inspection of Machinery Act, 1908."

(2.) Every person who seeks to obtain a certificate as engine-driver under this Act shall apply to the Board referred to in the aforesaid section forty-eight of "The Inspection of Machinery Act, 1908."

Official inquiries in case of accidents.

30. (1.) Where, in the opinion of the Inspector, an accident in a mine resulting in the death or injury of any person has been caused, directly or indirectly, by the non-observance by the mine-manager or engine-driver of the mine of any of the provisions of this Act or of any regulation thereunder, or by reason of his negligence, the Inspector shall apply to a Magistrate to hold an inquiry into the matter.

(2.) The Magistrate shall fix a time and place for the holding of such inquiry, and shall cause not less than seven days' notice thereof to be given to the person whose non-observance or negligence is to be inquired into.

(3.) Such notice shall require the person aforesaid to appear at the time and place so fixed, and then and there to produce his certificate to the Court.

(4.) The inquiry shall be held before a Court consisting of the Magistrate sitting with two Assessors (appointed by the Magistrate), one of whom shall be the holder of a first-class mining-manager's certificate, and the other an experienced miner working in some mine other than that in which the accident occurred.

(5.) The Court shall have all the powers of a Magistrate's Court.

(6.) If the Court finds that the accident was caused, directly or indirectly, by the non-observance by the holder of any certificate under this Act of any of the provisions of this Act or of any regulation thereunder, or by reason of his negligence, it may disqualify him by cancelling his certificate or by suspending it for such period as the Court thinks fit; and during the period of such disqualification the person so disqualified shall, for all the purposes of this Act, be deemed not to be the holder of a certificate.

(7.) There shall be the like right of appeal against any order of the Court under this section as if it were an order of a Magistrate's Court.

(8.) Notice of every such disqualification shall be forwarded by the Magistrate to the Minister, and shall be published in the *Gazette*.

Offences.

31. (1.) Any person who acts in the capacity of mine-manager, or of engine-driver in charge of any such winding-engine or winding-machinery as aforesaid, without a certificate of competency or of service, or while he is disqualified as aforesaid, shall be deemed guilty



of an offence against this Act, and shall be liable to a fine not exceeding five pounds for every day during which he acts in such capacity.

(2.) Every person who, in breach of this Act, employs any uncertificated or disqualified mine-manager or engine-driver shall be deemed guilty of an offence against this Act, and shall be liable to a fine not exceeding five pounds for every day during which he so employs such uncertificated or disqualified mine-manager or engine-driver.

(3.) Every person acting as manager of a mine or as engine-driver in charge of any such winding-engine or winding-machinery as aforesaid shall, on demand of any Inspector of Mines, Inspector of Machinery, or other person authorised by the Minister, produce his certificate of competency or of service.

No female or boy to be employed in any mine.

32. No female and no boy shall be employed in any capacity in or about any mine.

Youths not to be employed in certain cases.

33. (1.) No youth shall be employed as lander or bracceman at any time at a brace set over any shaft.

(2.) No youth shall be employed for more than forty-eight hours in any week, exclusive of the time allowed for meals, nor more than eight hours in any day, except in cases of emergency.

Youths under eighteen not to work engine, &c., in certain cases.

34. (1.) Wherever any entrance to any mine or any communication within any part of any mine to any other part thereof is by means of a vertical shaft or pit or inclined plane or level, no person other than a properly competent person of the full age of eighteen years shall have charge of any engine, windlass, or gin (whether driven or worked by manual labour or any other power), or of any part of the machinery, ropes, chains, or other tackle by or by means of which persons are brought up or passed down or along any such vertical shaft or pit or inclined plane or level.

(2.) Every owner or agent or other person who knowingly employs or permits any person other than as aforesaid to have any such charge shall for every such offence be liable to a fine not exceeding fifty pounds.

Persons in charge of steam machinery to be employed certain number of hours only.

35. (1.) No person in charge of steam machinery used in connection with any mine, or for the treatment of the products of any mine, shall be employed for more than eight consecutive hours at any time.

(2.) Any such person who has continually worked for eight hours shall not resume work until after an interval of not less than four hours.

(3.) Such period of eight hours shall be exclusive of any time occupied in raising steam and in drawing fires and exhausting steam in connection with the machinery in charge of such person, and exclusive of meal-hours and of any time in which such person is employed in case of breakage or other emergency.

(4.) Every employer or person employed who fails to comply with the provisions of this section shall be deemed guilty of an offence against this Act.

(5.) Every person in charge as aforesaid who is guilty of negligence by which any property is destroyed or damaged shall be guilty of an offence against this Act.

(6.) If any such person as aforesaid is employed during seven consecutive days in every week, he shall be entitled to not less than twelve half-days or six full days of holidays during the year.

#### Register of youths employed below ground.

36. The owner, agent, or manager of every mine to which this Act applies shall keep a register, and shall cause to be entered in such register the name, age, residence, and date of first employment of all youths who are employed in the mine below ground, and shall produce such register to any Inspector under this Act at the mine at all reasonable times, and allow him to inspect and copy the same.

#### Offence to employ youths or boys in breach of Act, &c.

37. (1.) If any person fails to comply with, or permits any person to violate, any provision of this Act with respect to the employment of youths or boys, or to the register of youths, he shall be guilty of an offence against this Act.

(2.) In case of any such violation or non-compliance by any person whomsoever, the owner, agent, and manager shall each personally be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and to the best of his power enforcing, the provisions of this Act, to prevent such violation or non-compliance.

(3.) If it appears that a youth or boy employed in a mine, or that a person employed about an engine, windlass, or gin, was employed on the representation of his parent or guardian that he was of that age at which his employment would not be in violation of this Act, and under the belief in good faith that he was of that age, the owner, agent, or manager of the mine and employer shall be exempted from any penalty; and the parent or guardian shall, for such misrepresentation, be deemed guilty of an offence against this Act.

(4.) If it appears that any youth, working for or with his parent, or guardian, or other person, or under his order or charge, is kept at work for a longer period than is prescribed by this Act, such parent, guardian, or person shall be responsible therefor.

## Overtime for underground work.

38. (1.) A miner shall be entitled to be paid overtime when he is employed underground in a mine for more than eight hours in any day, counting from the time he enters the underground working of the mine to the time he leaves the same.

(2.) For the purposes of this section "miner" means any workman employed underground in a mine.

## Employment of manual labour on Sunday prohibited.

39. (1.) Except in cases where the previous authority in writing of an Inspector of Mines has been obtained, it shall not be lawful for any person or company to directly or indirectly employ any workman on Sunday for hire or reward to do any skilled or unskilled manual labour in or about any mine.

## Cases in which Inspector may grant permission.

(2.) No Inspector of Mines shall give any such authority as aforesaid except in cases where he is satisfied that the labour cannot be suspended on Sunday without risk of injury to the mine or its operations; and when giving such authority he shall in each case state in writing his reasons for granting such authority, and shall specify the number of workmen that may be employed, and the nature of their employment, and the period during which such authority shall extend.

## Right of appeal.

(3.) There shall be the right of appeal to the Warden of the mining district from the decision of any Inspector of Mines in respect of the granting or refusing of an authority under this section.

## Penalty.

(4.) If any workman is employed in breach of this section, the person or company employing him, and also where the employer is a company, the mine-manager, and every director thereof are severally liable to a fine not exceeding five pounds:

Provided that it shall be a sufficient defence to a prosecution under this Act if the Court is satisfied that the employment was rendered necessary by reason of breakage or other special emergency involving danger to life or damage to property.

## Other provision not affected.

(5.) Nothing herein shall be construed to affect the operation of section seventeen of "The Police Offences Act, 1908":

Provided that no person shall be punished twice for the same offence.

## General rules.

40. The following general rules shall, so far as may be reasonably practicable, be observed in every mine:—

- (1.) Ventilation shall be constantly maintained in every mine at the rate of not less than one hundred and fifty cubic feet of air per minute for every person and six hundred cubic feet of air per minute for every horse or other animal while employed underground :

Provided that where the Inspector is satisfied that such rate is insufficient to provide adequate ventilation, he may from time to time require the rate to be increased to such extent as he thinks reasonable, either throughout the underground workings or in any specified part thereof.

- (2.) The use of gunpowder or other explosive or inflammable substance in a coal-mine shall be subject to the restrictions and provisions following :—

(a.) It shall not be stored on the surface of or adjacent to the mine unless in such magazine and in such quantities as may be approved in writing by the Inspector.

(b.) It shall not be stored in the mine in any quantity exceeding that which is required for use during six working-days for the purpose of the mine ; and, whilst so stored, it shall be kept in a drive or chamber separated by a door fixed across such drive or chamber at least thirty feet from any travelling-road.

(c.) It shall not be taken for use into the workings of the mine except in quantities actually required during the shift. Such quantities shall not exceed sixteen pounds of gunpowder or ten pounds of nitro-glycerine compounds in workings where drilling-machines are used, or eight pounds of gunpowder or five pounds of nitro-glycerine compounds in any other workings.

(d.) It shall not be taken for use into the workings of the mine except in securely covered cases or canisters, and a workman shall not have in use at one time in any one place more than one of such cases or canisters.

(e.) Detonators for blasting shall be kept stored on the surface of the ground in a covered box placed in a magazine specially provided for that purpose in which no other explosives are kept.

(f.) Not more than one hundred detonators shall be kept for service in any mine at one time, and these shall be kept in a covered box in the drive or chamber set apart for the purpose, and shall be taken out in such quantities only as are required for immediate use. Detonators shall not, on any pretence whatever, be placed near any travelling-road, pass, or working-face.

(g.) No person shall enter with a naked light a powder-magazine or any excavation in a mine where powder or other explosive or inflammable substance is stored.

(*h.*) No iron or steel pricker shall be used in blasting, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine.

(*i.*) The owner of the mine shall provide copper prickers.

(*j.*) A charge which has missed fire may be drawn by a copper pricker, but shall not be visited until three hours have elapsed from the time of lighting the fuse of such charge. In no case shall an iron or steel drill be used for the purpose of drawing or drilling out such charge, nor shall any charge be drawn where nitro-glycerine compounds or detonators have been used :

Provided that this paragraph shall not apply to charges fired by an electric current.

(*k.*) No person under the age of eighteen years shall be allowed to charge a hole with explosives or to fire any charge.

(*l.*) No drill-hole shall be bored within a distance of three feet directly below or within one foot in any other direction from the site of a previously exploded charge of any nitro-glycerine compound, and no drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro-glycerine compound has been previously exploded.

(*m.*) In all cases where the fumes arising from the explosion of any nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralised or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations.

(*n.*) Miners employed in blasting with nitro-glycerine compounds shall be supplied by their employer with the means of thawing such compounds, and with the means of producing sulphate-of-iron spray.

Manholes in self-acting or engine planes.

- (3.) Every underground plane on which persons travel which is self-acting or worked by an engine, windlass, or gin shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping-places and the ends of the plane ; and shall be provided in every case, at intervals of not more than twenty yards, with sufficient manholes for places of refuge.

Spaces in horse-roads.

- (4.) Every road on which persons travel underground, where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn

by a horse or other animal, shall be provided at intervals of not more than one hundred yards with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length and of at least three feet in width between the wagons running on the tramroad and the side of the road.

Keeping spaces clear.

- (5.) Every manhole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a manhole or such space so as to prevent access thereto.

Fencing off entrance to shafts.

- (6.) The top and all entrances between the top and bottom of every working or pumping shaft shall be properly and securely fenced or securely covered, but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose of repairs or other operations if proper precautions are used.

Every abandoned or disused shaft shall be fenced or securely covered in by the lessee or registered owner thereof, and its position indicated on the surface by a post or cairn of stones, or such other permanent distinguishing mark as the Inspector shall think sufficient.

Horizontal bar to be provided where fence or cover is temporarily removed.

- (7.) When a fence or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations, a strong horizontal bar shall be securely fixed across such entrance, three feet from the floor of the brace chamber or drive, as the case may be.

Securing of shafts.

- (8.) Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined, or otherwise made secure, for which purpose an ample supply of sound good timber or other necessary material shall be kept on the ground ready for immediate use.

Drives and excavations to be protected.

- (9.) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein.

Protected lights to be used in main drives.

- (10.) Safe and suitable lights, approved of by the Inspector, shall be provided for the use of miners when travelling in the main drives or roadways of any mine, and the upper entrance to every shaft or blind shaft in use, while open or unfenced, shall be illuminated by a fixed light.

## Division of shafts.

- (11.) Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material or pumping, the first-mentioned portion shall be cased or otherwise securely fenced off separate from the last-mentioned portion.

## Signalling.

- (12.) Every working-shaft in which a cage is used, and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam or other machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in work between the top and the bottom of the shaft to the top, and thence to the engine-room, and from the engine-room and top to the bottom of the shaft and to every entrance for the time being in work between the top and the bottom of the shaft ; and no verbal signals or communications shall be made up or down a shaft exceeding fifty yards in depth in which cages are used, except through speaking-tubes or telephones in the pump compartment of such shaft.

Every person employed in a mine shall make himself acquainted with the system of signals used in such mine.

A line or some other appliance shall be provided in each shaft to admit of danger-signals being communicated to the engine-driver from any portion of such shaft.

## Clear view for engine-driver.

- (13.) A clear view shall be kept for the engine-driver between his station and the shaft at the surface brace.

## All modes of signalling to be clear and distinct.

- (14.) All methods of signalling in mines to indicate that persons or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted in a clear and legible form on framed boards, one of which shall be placed at the chamber at the bottom of the workings in the shaft, and the other at the brace at or near the top of the shaft.

Such methods shall be subject to the approval of the Inspector, and shall also be subject to such alterations and amendments as may from time to time be indicated by the Minister on the report of the Inspector ; and any neglect to carry out such indicated alterations or amendments shall be an offence against this Act.

## Cover overhead.

- (15.) A cage shall have a sufficient cover overhead when used for lowering or raising persons in any working-shaft. Such cage-cover shall be constructed of iron not less than one-quarter part of an inch thick, and shall be securely hung on hinges and fitted with sloping sides, so as to be readily lifted upwards by persons within the cage. Wherever practicable, all persons working in shafts shall be protected overhead from falls of material down such shaft, by means of a roof or other suitable appliance.

## Material not to be placed in same cage as men.

- (16.) No iron, timber, tools, rails, sprags, or other material, except for repairing the shaft, shall be placed in the same cage in which persons are being lowered or raised from their work.

## Braces to be covered overhead.

- (17.) Every brace or pit-bank shall be properly covered to protect the workmen from the inclemency of the weather.

## Proper ladder or footway.

- (18.) A proper ladder or footway shall be provided in every shaft in which a whim, whip, or windlass is used, and in every working pit or shaft where no machinery is used for lowering or raising persons employed therein.

## Chains.

- (19.) A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling-chain attached to the cage or load. When chains are employed as couplings to cages two single-linked chains of uniform size shall be used to each coupling.

## Ropes and chains to be tested.

- (20.) Before any rope or chain is used in the shaft of a mine it shall be tested and proved to be equal to carrying twice the weight of the ordinary load; and in mines where persons are lowered or raised in shafts the ropes and chains shall be periodically tested at intervals of not more than three months to carry twice the weight of the ordinary load.

And such tests shall be made in the presence of some person appointed for that purpose by the miners engaged in the mine.

## Appliance to prevent rope on drum slipping.

- (21.) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances, as may be sufficient to prevent the rope from slipping.



## Brake.

- (22.) There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) to show to the person who works the machine the position of the cage or load in the shaft.

## Cages to have safety appliances.

- (23.) Every cage used in a mine shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also to prevent it coming into contact with the poppet-heads.

## Spring catches or tumblers to be affixed to skids.

- (24.) Spring catches, or automatic or self-acting doors or tumblers, of a suitable kind shall be affixed to the skids or guides below the poppet-heads of every shaft in which a cage is used, to prevent the fall of such cage down the shaft when detached from the rope or chain by overwinding.

## Protection to persons ascending or descending shaft.

- (25.) In any shaft exceeding twenty feet in depth, in which cages are not used, no person shall descend or ascend by the aid of machinery unless, in addition to the use of the loop, cross-bar, or other appliance, he be securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms; and such method of staying shall be used by every person who finds it necessary, in the execution of his duty, to descend or ascend a shaft on top of the cage-covers.

## Inclination of ladders.

- (26.) A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or overhanging position, unless in shafts used exclusively for pumping, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms, at intervals of not more than thirty feet, and a suitable fixture for a hand-grip shall be placed above such ladder, for the use of persons ascending or descending such ladder.

## When no haulage permitted.

- (27.) Wherever there is no sufficient travelling-road, no haulage shall be permitted while men are travelling to or from shift.

## Dressing-rooms.

- (28.) If more than six persons are employed in the mine below ground in one shift, sufficient accommodation shall, if ordered by the Inspector, be provided above ground near the principal entrance of the mine, and not in the engine-house or boiler-house, for enabling the persons employed in the mine to conveniently dry and change their dresses; and in no case shall men be allowed to change their dresses upon a boiler.

## Persons in charge of machinery.

- (29.) No person under the age of twenty-one years shall be placed in charge of or have the control of any steam engine or boiler used in connection with the working of any mine. No person in charge of steam machinery in connection with the working of any mine shall, under any pretext whatever, unless relieved by a competent person for that purpose, absent himself or cease to have continual supervision of such machinery during the time it is used in working the mine.

## Machinery to be examined.

- (30.) All machinery in which steam, water, or air, or any two or more of them, are used as motive power shall be subject to the provisions of "The Inspection of Machinery Act, 1908," so far as the same reasonably apply; and no such machinery erected or fitted up shall be employed until it has been examined by an Inspector appointed under the last-mentioned Act, and certified by him to be in proper and fit working-condition.

## Machinery to be kept in good order and condition.

- (31.) All boilers, compressors, engines, gearing, and all other parts of machinery, when used for any mining purpose or for the treatment of the products of any mine, shall be kept in a fit state and condition.

## Fencing machinery.

- (32.) Every fly-wheel, and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform, shall be and be kept securely and safely fenced, except tramways worked by ropes or chains.

## Gauges to boiler and safety valve.

- (33.) Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve; and at least once in every six months, or oftener if required, every boiler shall be thoroughly

cleansed : and once in every twelve months every such boiler shall be subjected to an hydraulic test ; and the date and full description of every such test and cleansing shall be entered in a book to be kept by the mine-manager or other person in charge of the mine, and the entries in such book shall, on demand, be open to the perusal of any Inspector under this Act or under " The Inspection of Machinery Act, 1908."

Uninterrupted view of pressure-gauge.

- (34.) Where compressed air is used as the motive power for any machinery, the air-receiver or air-pipe shall have a pressure-gauge fixed upon it in such a way that the engine-driver shall have an uninterrupted view of the pressure-gauge.

Vertical shafts to underground furnaces.

- (35.) The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into any part of such workings, nor in any manner other than by means of an airtight flue conducting such smoke directly from the boiler or furnace into a vertical shaft cut in the rock up to the surface of the ground to the open air, or built up to the surface as aforesaid with bricks and cement, in manner as to be completely airtight.

Wilful damage.

- (36.) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act.

Protection of abandoned shafts.

- (37.) No person shall, after any shaft has become disused for mining purposes, wilfully damage or render useless such shaft by the removal of any fencing, covering, casing, lining, ladder, platform, or other appliance provided in such shaft, without the consent of the Minister.

Water and bore holes.

- (38.) Where a place is likely to contain a dangerous accumulation of water, the working approaching such place shall not exceed eight feet in width, and there shall be constantly kept, at a sufficient distance, not being less than twenty feet in advance, at least one borehole near the centre of the working, and flank boreholes shall be put in not more than fifteen feet apart on each side.

Mines liable to flood to be provided with escape-drives.

- (39.) In every mine which in the opinion of an Inspector is liable to an inundation or inburst of water, such additional shafts, rises, chambers, drives, and other workings, or any of them, shall be constructed as may seem necessary and as may be prescribed by the Minister for the escape of workmen from the lower workings, or to insure their safety in every such mine during the period of any inundation or inburst of water in such mine.

Ladders to be provided in upcasts.

- (40.) Ladders (and, when necessary, convenient platforms connected therewith) shall be provided in each rise, upcast, or passage giving access to workings at a higher level in a mine, and a notice shall be posted at the foot of each such rise, upcast, or passage stating the height of such rise, upcast, or passage to the chamber or drive above.

Manager in charge of mine to inspect.

- (41.) The manager of every mine, or other competent person or persons appointed for such purpose, shall once at least in every twenty-four hours examine the state of all safety appliances or gear connected with the cages, winding-ropes, or shafts in the mine, and the manager shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mine, and every such manager and person, forthwith after every such examination, shall record in writing, in a book to be kept for that purpose, his opinion as to their condition and safety, and any repairs, and as to any alterations required to insure greater safety to the persons employed in the working of such mine, and such book shall, on demand, be open to perusal by any Inspector under this Act; and every such safety appliance or gear, if condemned by any Inspector of Mines or Inspector of Machinery, shall forthwith be removed or made fit.

Examination of mine.

- (42.) In every mine, once in every twenty-four hours if one shift of workmen is employed, and once in every twelve hours if two shifts are employed during any twenty-four hours, a competent person or competent persons, who shall be appointed for the purpose, shall, before the time for commencing work in any part of the mine, inspect with a safety lamp that part of the mine and the roadways leading thereto, and shall make a true report of the condition thereof so far

as ventilation is concerned ; and the workmen shall not go to work in such part until the same and the roadways leading thereto are cleared from gas by ventilation and stated to be safe.

Every such report shall be recorded without delay in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

Stations to be appointed.

- (43.) In every mine in which inflammable gas has been found within the preceding twelve months, a station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require, and a workman shall not pass beyond any such station until the mine or part of the mine beyond the same has been cleared from gas by ventilation, and inspected and stated to be safe, and such inspection shall be made within two hours before the time fixed for the miners commencing work.

Fencing of places not in use.

- (44.) All entrances to any place not in actual course of working and extension shall be properly fenced across the whole width of such entrance, so as to prevent persons inadvertently entering the same.

Withdrawal of workmen in case of danger.

- (45.) If at any time it is found by the person for the time being in charge of the mine or any part thereof that, by reason of noxious gases prevailing in such mine, or such part thereof, or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine, or such part thereof as is so found dangerous. A competent person who shall be appointed for the purpose shall inspect the mine, or such part thereof as is so found dangerous, and, if the danger arises from inflammable gas, shall inspect the same with a locked safety lamp, and in every case shall make a true report of the condition of such mine or part thereof ; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger, or for the removal thereof, or for exploration, be readmitted into the mine, or such part thereof as was so found dangerous, until the same is stated by such report not to be dangerous.

Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person making the same.

## Safety lamps and lights.

- (46.) Whenever safety lamps are required by this Act, or by the special rules made in pursuance of this Act, to be used, such lamps shall be supplied by the owner, agent, or manager, of a pattern to be approved by the Inspector. A competent person who shall be appointed for the purpose shall examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be secure and securely locked; and in any part of a mine in which safety lamps are so required to be used they shall not be used until they have been so examined and found secure and securely locked, and shall not without due authority be unlocked; and in the said part of the mine a person shall not have in his possession any lucifer-match or apparatus of any kind for striking a light, or any tobacco-pipe or contrivance for smoking, or (unless he is appointed for the purpose) any key or contrivance for opening the lock of any safety lamp.

## Barometer and thermometer.

- (47.) After inflammable gas has been found in any mine it shall be cleared by ventilation, and a barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

## Right of inspection by miners extended.

- (48.) (a.) Where workmen are employed in a mine, or any of the workmen so employed are members of a society formed in connection with the coal-mining industry, and registered under "The Industrial Conciliation and Arbitration Act, 1908," as an industrial union of workers, such workmen or society may, at their own cost, appoint any two persons to inspect the mine, whether such persons are employed in the mine to be inspected or not.

(b.) The persons so appointed shall have full liberty to visit and inspect every part of the mine, its machinery and workings, once at least in every month.

(c.) The mine-owner and mine-manager may accompany the persons so appointed in their inspection, and shall give them full and free facilities for the inspection.

(d.) The persons so appointed shall make a full and faithful report in writing of the result of their inspection, which report shall be signed by them, and they shall furnish a copy thereof to the owner or manager of the mine, who shall cause the same to be recorded in a book kept at the office of the mine.

(c.) Such book shall, at all reasonable times, be open to the inspection of any Inspector or workmen employed in the mine, or officer of the said society, who may take copies of or extracts from the reports recorded therein.

Books and copy of Act to be kept at mine.

- (49.) The books mentioned in this section, or a copy thereof, and a copy of this Act, shall be kept at the office at the mine, and any Inspector under this Act, and any person employed in the mine, may at all reasonable times inspect and take copies from any such books, or extracts from such Act.

Penalty for breach of general rules in this section.

Any manager, or any person in charge of or giving orders or directions relating to the carrying-on of any mining operations in a mine, who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance.

Printed copy of general rules to be posted in the office.

A printed copy of the rules provided for in this section shall be posted in the office and on a building or board in some conspicuous place in connection with every mine.

Special rules in Second Schedule to apply to all mines.

41. The special rules set forth in the Second Schedule to this Act shall be the special rules for the conduct and guidance of persons acting or employed in or about every mine to insure the health and safety of such persons, and the owner or agent of every mine shall cause a copy of such special rules to be hung up in some conspicuous place in the mine.

Additional rules for particular mines.

42. (1.) The owner or agent of any mine may from time to time frame, alter, or revoke such additional special rules (hereinafter called "additional rules"), not in conflict with the special rules set forth in the said Second Schedule, as may appear under the particular state and circumstances to be desirable for obtaining the above objects, which shall at once be transmitted by the owner or agent to the local Inspector, who shall forthwith transmit them with a report of their respective fitness to the Minister; and, if they are not objected to within one month after the receipt thereof by the Minister, they shall be the additional rules of the mine, and published in manner mentioned in the next following section.

## Saving of existing additional rules.

(2.) So much of any additional rules as at the coming into operation of this Act are in force in any mine under any Act relating to coal-mines repealed by "The Coal-mines Act, 1905," and are not in conflict with the special rules contained in the Second Schedule to this Act, shall continue to be the additional rules in such mine until altered or revoked by additional rules made under this Act.

## Publication of rules and provisions of Act.

43. For the purpose of making known the general rules, the special rules, the additional rules, and the provisions of this Act to all persons employed in or about each mine to which this Act applies, a copy of the general rules contained in section forty hereof supplied on the application of the owner, agent, or manager of the mine by the Inspector on behalf of the Governor, and an entire copy of the special rules and additional rules, shall be published as follows:—

- (a.) The owner, agent, or manager of such mine shall cause such general, special, and additional rules, with the name and address of the Inspector, and the name of the owner or agent, and of the manager, appended thereto, to be posted up in legible characters in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and, so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch.
- (b.) The owner, agent, or manager shall supply a printed copy of the general, the special, and the additional rules gratis to each person employed in or about the mine who applies for such copy at the office at which the persons immediately employed by such owner, agent, or manager are paid.
- (c.) Every copy of the general, the special, and the additional rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

## Destroying or defacing rules when posted.

44. Every person who pulls down, injures, or defaces any proposed rules, or any rules when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of any rules, is guilty of an offence against this Act.

## Rules certified by Inspector to be evidence.

45. An Inspector under this Act shall, when required, certify a copy, which is shown to his satisfaction to be a true copy, of any rules which for the time being are established under this Act in any mine; and a copy so certified shall be evidence (but not to the exclusion of other proof) of such rules, and of the fact that they are established under this Act and have been signed by an Inspector.



False statement by owner, agent, or manager as to posting up rules deemed an offence.

46. If the owner, agent, or manager of any mine makes any false statement with respect to the posting-up of any rules he is guilty of an offence against this Act: and if any additional rules for any mine are not transmitted within the time limited by this Act to the local Inspector, for the approval of the Governor, the owner, agent, and manager of such mine are each guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the foregoing provisions in that behalf, to secure the transmission of such rules.

Openings in mines to be provided.

47. (1.) Within one year after commencing the working of any bords, stalls, or longwall workings in any mine there shall be made and completed at least two separate and distinct shafts or outlets to the surface from such mine, intercommunicating with each other, so that such shafts or outlets shall afford a separate means of ingress or egress available to the persons employed in such mine. Such shafts must not, if made after the commencement of this Act, be nearer than fifty feet to each other. Proper apparatus for raising or lowering persons at each such shaft shall be kept on the works of the mine, and, if not in actual use at the shafts, shall be so kept as to be quickly available for use.

(2.) The owner of any mine wherein such two openings shall not be completed as aforesaid shall be liable to a fine not exceeding one hundred pounds for every week during which the same shall remain incomplete.

Not to apply if not more than six persons employed below ground.

(3.) But this provision shall not apply so long as not more than six persons are employed below ground at any one time in the whole of the different seams in connection with each outlet in such mine or working.

No agreement to bar liability.

48. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Shafts with vertical or overhanging ladders to have platforms.

49. (1.) In every case where vertical or overhanging ladders are used in connection with the shaft of any mine, securely fixed platforms shall be constructed at intervals of not more than thirty feet from each other in such shaft, and such ladders shall have sufficient spaces

for foot-holds of not less than six inches ; but in no case shall new vertical or overhanging ladders be constructed either in substitution for old ones or otherwise.

(2.) Every person who contravenes or does not comply with this section is guilty of an offence against this Act.

Persons employed in mines to satisfy themselves and to report as to safety of mine.

50. Every person employed in or about any mine shall satisfy himself of the safety of any tubs, chains, tackle, windlass, ropes, or other appliances he may use before commencing and whilst at work, and in case of any defect or insecurity he shall cease to use anything unsafe ; and every such person who witnesses in or about any such mine any circumstance, matter, or thing which may be likely to produce therein danger of any kind, and every person who may be notified by any such person of any such circumstance, matter, or thing, shall notify the same to the person (if any) under whose immediate directions or control he may be ; and every such person in subcharge of and employed in mining operations in any part of a mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed, or otherwise he shall be guilty of an offence against this Act.

Inspector to make inquiry on complaint of miner.

51. Immediately upon any miner working in the mine making a complaint under this Act to any Inspector, it shall be the duty of such Inspector to make inquiry into the matter of such complaint, and to take such other steps as he may deem necessary to investigate the matter, and the name of the informant shall not be divulged by the Inspector.

Plan of workings of mine to be kept and copy forwarded to Inspector.

52. (1.) The owner, agent, or manager of every mine where there are underground workings shall keep at the office at the mine an accurate plan of the workings of such mine, made by a certificated manager, a mining engineer being a licensed surveyor, or by a surveyor authorised as such by the Surveyor-General, and a copy of such plan shall be forwarded to the Inspector once in every six months with the whole of the workings shown thereon up to one month previously.

(2.) Every such plan shall be made to a scale of not less than two chains to an inch.

(3.) If the owner, agent, or manager of any mine fails, neglects, or refuses to forward to the Inspector a copy of such plan once in every six months, he is guilty of an offence against this Act, and shall be liable to a fine not exceeding twenty pounds for each offence.

Check survey if plan incorrect.

(4.) If the Inspector has reason to think that any plan forwarded to him as aforesaid is incorrect he shall report the same to the Minister, who, if he thinks fit, may cause a check survey to be made, and if thereupon the plan aforesaid prove to be incorrect in any material respect the owner, agent, or manager of the mine in which the said check survey is made shall be liable to pay all costs and charges for making such check survey or in connection therewith, and such costs and charges may be recovered as a debt due to the Crown.

Plan of abandoned mine to be sent to Minister.

53. (1.) Where any mine is abandoned the owner of such mine at the time of such abandonment shall, within one month after such abandonment, send to the Minister an accurate plan, on a scale of not less than two chains to one inch, or on such other scale as the plan used in the mine at the time of such abandonment is constructed on, showing the boundaries of the workings of such mine up to the time of the abandonment, with the view of its being preserved under care of the Minister.

(2.) Every person who fails to comply with this section is guilty of an offence against this Act.

Notice to be given to Inspector of abandonment, &c., or opening of mine.

54. (1.) When any mine is abandoned, or the working thereof discontinued, or after any abandonment or discontinuance for more than one month the working thereof is recommenced, or when any workings are commenced for opening a new mine, the owner or agent shall give notice thereof in writing to the Inspector within one month after such abandonment, discontinuance, recommencement, or commencement.

(2.) In every case of abandonment or discontinuance the mine shall be and be kept securely fenced by the owner or agent, and all trial pits shall be fenced and kept secure by the owner of the land on which such trial pits are sunk.

Powers of Inspectors.

55. Every Inspector under this Act shall have power to do all or any of the following things, namely:—

- (a.) To make from time to time such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with:
- (b.) To enter, inspect, and examine any mine and every part thereof at all reasonable times by day and night, but so as not to impede or obstruct the working of the said mine:
- (c.) To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules

for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto :

- (d.) To exercise such other powers as may be necessary for carrying this Act into effect.

Inspector to give notice to owner or agent of mine of causes of danger not provided for by rules.

56. If in any respect (which is not provided against by any express provision of this Act or by any special rule) any Inspector finds any mine, or any part thereof, or any matter, thing, or practice in or connected with any such mine, to be dangerous or defective, so as, in his opinion, to threaten or tend to the bodily injury of any persons, such Inspector may give notice in writing thereof to the owner or agent of the mine, and shall state in such notice the particulars in which he considers such mine, or any part thereof, or any matter, thing, or practice, to be dangerous or defective, and require the same to be remedied, and unless the same be forthwith remedied the Inspector shall also report the same to the Minister.

If owner or agent objects to comply with requisition, question to be determined by arbitration.

57. (1.) If the owner or agent of the mine—

- (a.) Objects to remedy the matter complained of in the notice he may, within seven days after the receipt of such notice, send his objection in writing, stating the grounds thereof, to the Minister, and shall also send a copy of the same to the Inspector, who shall report on the same to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act in relation to the special rules, and the date of the receipt of such objection shall be deemed to be the date of the reference :

If he fails to comply with award, or with requisition where no arbitration, he is guilty of offence against Act.

- (b.) Fails to comply with the requisition of the notice given by the Inspector, when no objection is sent within the time aforesaid, or with the award made on arbitration, within twenty days after the receipt of such notice or the making of the award (as the case may be), he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of such offence.

Court may adjourn proceedings for fine to enable requisition or award to be complied with.

(2.) The Court, if satisfied that the owner or agent has taken active measures for complying with the notice or award, but has not with reasonable diligence been able to complete the works, may ad-

journ any proceedings taken before it for punishing such offence, and if the works are completed within a reasonable time no fine shall be inflicted.

No agreement to be bar to complying.

(3.) No persons shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts.

Power to close dangerous mine.

58. (1.) Where in the opinion of the Inspector a mine or any part thereof is found to be exceptionally dangerous, he may require the owner or agent to withdraw the workmen from such mine or dangerous part thereof, excepting such workmen as are required to effect the necessary work to put the mine in safe condition; and mining operations shall not be resumed until the mine or dangerous part thereof is made safe to the satisfaction of the Inspector.

(2.) The provisions of the last preceding section shall extend and apply to a requisition under this section.

Liability of person committing breach of Act whereby any other person is injured or killed.

59. Every person who contravenes or does not comply with any of the provisions of this Act, or who is guilty of negligence by which any person is injured or killed, either by himself, his agent or servant, is guilty of an offence against this Act, and is liable to a fine not exceeding, if he is the owner, mine-manager, or underviewer, or person in charge of or giving orders or directions relating to the carrying-on of any mining operations in any mine, fifty pounds, and, if he is any other person, not exceeding ten pounds, for each offence.

Accident in mine *prima facie* evidence of negligence.

60. (1.) Any accident occurring in a mine shall be *prima facie* evidence that such accident occurred through some negligence on the part of the owner.

Compensation in case of accidents caused by negligence.

(2.) If any person employed in or about any mine suffers any injury in person, or is killed, owing to the non-observance in such mine of any of the provisions of this Act, such non-observance not being solely due to the negligence of the person so injured or killed, or owing in any way to the negligence of the owner of such mine, his agents or servants, the person so injured, or his personal representatives, or the personal representatives of the person so killed, may recover from the owner compensation by way of damages as for a tort committed by such owner; and the amount of such compensation with the costs of recovering the same when determined, shall con-

stitute a charge on the mine and mining plant in or about which such person was so employed, and all charges arising under the provisions of this section shall, as between themselves, be paid rateably.

#### Mode of recovery of compensation.

(3.) Such compensation may be recovered under the provisions of "The Workers' Compensation for Accidents Act, 1908," or "The Deaths by Accidents Compensation Act, 1908," or "The Employers' Liability Act, 1908," which shall respectively be applicable, according to the circumstances of each particular case; subject, however, that notice of injury having been sustained may be given under the last-mentioned Act at any time within three months from the occurrence of the accident causing the injury, instead of within six weeks as provided in that Act.

#### Other rights saved.

(4.) Nothing in this section shall take away from any person any right to take proceedings in respect of a claim for compensation for injury or death by accident which he may have under any Act other than this, if he prefers to proceed under such Act, but in such case he shall forfeit any right he may have to take proceedings under this section.

In proceedings against manager or person in charge, burden of proof to lie on defendant that he is not such.

61. For the purpose of any proceeding taken under the provisions of this Act against any manager or person in charge of or giving orders or directions relating to the carrying-on of any mining operations in a mine, the burden shall lie on the defendant of proving he is not such manager or person.

#### Inspection of mine after serious accident.

62. (1.) The mine-manager shall forthwith after the occurrence of any accident attended with serious injury to any person give notice thereof by telegraph to the Minister and to the Inspector, and shall also at the same time send written notice thereof to the Inspector and to the workmen's inspector.

(2.) Every manager who omits to give such notice shall be guilty of an offence.

(3.) As soon as practicable after any such accident the Inspector shall visit the mine, and shall give to the mine-manager and to the workmen's inspector appointed under paragraph (48) of section forty hereof notice of the time when such visit is to be made.

(4.) The workmen's inspector shall be permitted to accompany the Inspector of Mines on such visit, and shall report the result thereof in the manner provided by the said section.

(5.) The part of the mine where the accident occurred shall not be interfered with until inspected by the Inspector or by some other person appointed for the purpose by the Minister, or by the Coroner's jury, unless with the view of saving life or preventing further injury.

Inspector to attend inquest.

63. Unless the Inspector or some person appointed by the Minister is present at an inquest holden upon the body of any person whose death may have been caused by any such accident, the Coroner shall adjourn the same, and by written notice delivered or sent four days at the least before holding the adjourned inquest give notice of the time and place of holding the same, but before such adjournment the Coroner may take evidence to identify the body and order the interment thereof; and the Inspector or other person authorised in that behalf, and also the owner, agent, or manager, either in person or by counsel, and any person, being a miner working in the mining district, duly authorised in writing by the miners' union of the district in which the accident occurred, shall be at liberty to examine or cross-examine any witness at any such inquest:

Provided that if the accident has not occasioned more than one death, and notice of the inquest has been given by the Coroner not less than forty-eight hours before the time of holding the same, it shall not be imperative on the Coroner to adjourn such inquest if the majority of the jury think it unnecessary.

As to Coroners' inquests.

64. With respect to Coroners' inquests on the bodies of any persons whose death may have been caused by accidents in mines, the following provisions shall have effect, that is to say:—

Any person having a personal interest in or employed in or in the management of the mine in which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or sit on the jury; nevertheless, whenever it is practicable, one-half the jurymen shall be miners.

Power of certain officers to enter and inspect mine.

65. The Inspecting Engineer or any other officer of the Mines Department duly authorised in writing by the Minister may enter and inspect any mine.

As to question whether mine is a coal-mine or not.

66. If any question arise whether a mine is a coal-mine to which this Act applies, such question shall be referred to the Minister, whose decision thereon shall be final.

\* \* \* \* \*

## MISCELLANEOUS.

## Arbitration.

74. (1.) In the event of any dispute arising between any miners and the owner or agent of any mine as to any general, special, or additional rules, or between the parties aforesaid and the Inspector as to the administration of the rules, or upon any matter within the scope of this Act (not being an offence against this Act) and not otherwise provided for, the matter in dispute may be referred to the arbitration of one or more arbitrators appointed by the parties on each side respectively and an umpire to be appointed by such arbitrators.

(2.) The determination of such arbitrator, or of such arbitrators, or arbitrators and umpire, or of the majority thereof (if there are more than two), shall be final, and the award may be made a rule of the Supreme Court.

(3.) The cost of every arbitration under this Act shall be defrayed and paid as the award directs.

## Conduct of arbitration.

75. For the purposes of such arbitration the Minister shall, on behalf of the Governor, be deemed to be a party to such arbitration within the meaning of the following provisions, unless otherwise specially provided by this Act in any particular case :—

- (a.) If either party fails to appoint an arbitrator within twenty-one days after being requested in writing to do so by the other party, then the arbitrator appointed by the other party shall alone conduct the arbitration, and his decision shall be final and binding on both parties.
- (b.) If the said arbitrators fail to act in the matter when referred to them within fourteen days after their appointment, or fail to agree upon the matter referred to them within twenty-eight days of the same having been so referred, then the matter so referred shall be decided by an umpire to be appointed by the said arbitrators, whose decision shall be final and binding on both parties.
- (c.) Every such arbitration shall be carried on in the manner prescribed by “The Arbitration Act, 1908,” and be subject to such last-mentioned Act in the same manner as if the reference to such arbitration had been made by consent of parties under a deed.
- (d.) Each party shall pay his or its cost of such reference, and any costs incidental to the apportionment of an umpire shall be paid equally by the parties to the arbitration.
- (e.) Such arbitrators or umpire shall have all the powers vested in Commissioners by “The Commissions of Inquiry Act, 1908.”



- (f.) Whenever the Minister is a party to an arbitration each party shall appoint its own arbitrator, and a Judge of the Supreme Court, to be nominated by the Governor, shall be the umpire between the said arbitrators.

Injury to adjoining mine by flood-water.

76. (1.) Every owner of a mine where there is an accumulation of water who wilfully or negligently permits any water to overflow or percolate into any adjoining mine to the injury thereof, or to the impeding of any working therein, shall be liable to pay to the owner of such adjoining mine a contribution towards the cost of draining the said last-mentioned mine.

(2.) Such contribution shall be in proportion to the amount of water allowed to overflow or percolate as aforesaid, and, with costs, may be recovered in any Court of competent jurisdiction by the owner of the said adjoining mine into which the water has been allowed to overflow or percolate.

(3.) But no owner of any mine shall be entitled to claim or to recover any contribution as aforesaid under this section unless he has left a barrier of solid coal or unworked ground not less than thirty-three yards thick along the entire line of the boundary dividing his mine from any adjoining mine.

Power to make regulations.

77. The Governor may from time to time, by Order in Council gazetted, make regulations for all matters concerning the administration of this Act, and the conduct of officers and persons engaged therein, and for securing safety and the prevention of accidents, and, among other things, for—

- (a.) Prescribing the form and manner of making applications for leases or licenses, and the survey fees, license fees, and other fees payable on any lease or license :
- (b.) Prescribing terms and conditions for the issue of certificates of competency for mine-managers and engine-drivers in charge of any winding-gear for letting down or bringing up persons from mines :
- (c.) Regulating the examinations to be held with respect to the necessary knowledge and requirements in working a mine for the purpose of ascertaining the fitness of any person applying for any such certificate :
- (d.) Regulating the management and administration of the funds and moneys mentioned or referred to in section eighty hereof :
- (e.) Regulating the formation and establishment of Medical Clubs, and the notification of such formation to the coal-mine owners in the district :

- (f.) Regulatung the management and administration of the funds and moneys of such Medical Clubs :
- (g.) Regulatung the mode of keeping the accounts of the funds of such clubs, and of the inspection and audit of the books thereof, and the books of the coal-mine owners and Post-Office Savings-bank in relation only to such funds and accounts :
- (h.) Fixing fines for breaches of such regulations, such fines not to exceed for a first offence five pounds, and for a second or subsequent offence ten pounds :
- (i.) And generally to make any other regulations in relation to such Medical Clubs and the funds thereof as may be necessary to give effect to this Act.

Inspector to make annual report.

78. Every Inspector shall, on or before the first day of April in every year, make a report in writing of his proceedings during the year ending on the preceding thirty-first day of December, and transmit the same to the Minister.

Half-yearly returns by owner, agent, or manager of mine.

79. (1.) The owner, agent, or manager of every mine shall, in the months of January and July in every year, send to the Inspector, on behalf of the Minister, correct half-yearly returns for the preceding six months respectively ending on the last day of the previous months of June and December, specifying the quantity of coal or other mineral produced from such mine, and the number of persons ordinarily employed in or about such mine, below ground and above ground respectively, together with any other information connected with the mine the Minister may from time to time require.

(2.) Where the owner of the mine is a limited company, the return shall specify the total amount of dividends declared and the total amount of dividends paid by the company during the preceding six months.

(3.) The return shall be in such form as may be prescribed from time to time, and forms for the purpose of such returns shall be furnished on application to the Mines Department; and the Minister may publish the result of such returns.

(4.) Every owner, agent, or manager of a mine who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act.

Sick and Accident Fund, and Coal-miners' Relief Fund.

80. (1.) The owner of every coal-mine, whether situate on private lands or on Crown lands, in addition to the conditions for the payment of any royalty, shall contribute to a fund for the necessary relief of coal-miners who may be injured whilst working in coal-mines, and for the relief of the families of coal-miners who may be killed or injured whilst so working.

(2.) For the purpose of such fund every such owner shall, in the months of January, April, July, and October in every year, pay a sum equivalent to one halfpenny per ton on all coal, except brown coal and lignite, sold during the preceding three months respectively ending on the last day of the previous months of December, March, June, and September, and one farthing per ton on all brown coal and lignite sold during the same period, into the Post-Office Savings-bank which is nearest to the said mine, to the credit of an account called " the Sick and Accident Fund " in connection with the miners' association of the district where such mine is situated.

(3.) In case there is no miners' association, the money shall be paid into the Post-Office Savings-bank which is nearest to the said mine, to the credit of the Minister of Mines and the Public Trustee, in an account to be called " the Coal-miners' Relief Fund."

(4.) All moneys so paid into the said Sick and Accident Fund shall be operated upon only by the persons appointed in that behalf by the miners' association of the district, in accordance with regulations to be from time to time made by the Governor, and all moneys so paid into the said Coal-miners' Relief Fund shall be operated on only by the aforesaid Minister and Public Trustee jointly for the purposes of the said relief.

Inspector may examine books of mine.

(5.) Any Inspector of Mines is hereby authorised and empowered, at any reasonable time, to examine from time to time the books of any owner of a coal-mine for the purpose of ascertaining the quantity and description of coal raised from such mine during any period or periods; and also to ascertain from the proper officer having control of the Sick and Accident Fund of the miners' association of the district, and from the proper officer at any Post-Office Savings-bank as aforesaid, the amount paid to the credit of the Sick and Accident Fund or the Coal-miners' Relief Fund, as the case may be, by any owner of a coal-mine from time to time, and to compare the amounts so paid by any such owner in respect of any quarter of a year with the quantity and description of coal sold during such quarter as appearing in the books of such mine.

Fine for failing to contribute.

(6.) If on such comparison it appears that any such owner has not paid into the aforesaid Sick and Accident Fund or Coal-miners' Relief Fund any amount as hereby prescribed, or only a part thereof, such owner shall be deemed guilty of an offence against this Act, and shall be liable to a fine of two pounds sterling in respect of each and every pound sterling or fraction of a pound sterling which he should have but has not paid into the said Sick and Accident Fund or Coal-miners' Relief Fund respectively; and all fines recovered under this section, less the expenses incident to the recovery of the same, shall be

paid by the Inspector of Mines into the aforesaid Sick and Accident Fund or Coal-miners' Relief Fund respectively, and shall form part thereof.

Fine for obstructing Inspector.

(7.) Every owner of a coal-mine who refuses, obstructs, or prevents, or causes the refusal, obstruction, or prevention, of the production of the books of the mine, and the free examination of such books for the aforesaid purposes by any Inspector of Mines on his request for such production, is guilty of an offence against this Act, and is liable to a fine not exceeding fifty pounds for every day during which such refusal, obstruction, or prevention continues.

(8.) In any action brought by a workman against the owner for injuries, the amount to which such workman may be entitled from the Sick and Accident Fund or Coal-miners' Relief Fund shall be taken into consideration in assessing the damages.

(9.) "Owner" in this section includes any one or more owners, and any company, whether incorporated or not.

Allowance to widow when miner killed by accident.

81. When a coal-miner dies from the effects of an injury by accident arising out of and in the course of his employment, there may be paid to his widow and his children (if any) who are under the age of sixteen years at the date of his death any sum not exceeding fifty pounds out of the Sick and Accident Fund or the Coal-miners' Relief Fund, as the case may be, in such shares as the persons having the management of such fund decide.

Coal-miners' Medical Fund.

82. (1.) In addition to the funds mentioned in section eighty hereof, there may be established another fund called "the Coal-miners' Medical Fund."

Miners' association may form Medical Club.

(2.) The miners' association mentioned in subsection two of the said section eighty may, for a district as mentioned in that section, form a Medical Club, and shall upon such formation forthwith notify in writing the coal-mine owners within such district of the formation of such Medical Club.

Money to be deducted from wages and paid to credit of Medical Fund.

(3.) The owner of every coal-mine so notified shall (anything in any other Act notwithstanding) collect and deduct from the wages payable by him to every person employed in, upon, or about his coal-mine such sum per week as hereinafter prescribed, and shall pay such amount on the last day of each month into the Post-Office Savings-bank nearest to the mine, to the credit of an account called "the Coal-miners' Medical Fund" of the district where such mine is situated.

How Medical Fund operated on.

(4.) All moneys so paid into the said Medical Fund shall be operated on by the persons appointed in that behalf by the said Medical Club in accordance with the regulations to be formed as hereinbefore mentioned.

Weekly payments by members.

(5.) The said Medical Club shall decide what sum per week shall be paid by each member thereof as aforesaid, and may from time to time decrease, increase, or alter such sum, and shall notify the mine-owners of the amounts so fixed for payment in such manner as provided by regulations.

Wages to be paid at or near the mine.

83. All wages payable to the workmen employed at any mine shall, if so requested by a majority of such workmen, be paid either at the mine or at some place not more than two miles from the mine.

Wages or contract-money not to be paid at publichouse, &c.

84. (1.) No wages or contract-money shall be paid to any person employed in or about any mine to which this Act applies at or within any publichouse, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto or occupied therewith.

(2.) Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section is guilty of an offence against this Act; and, in the event of any such contravention or non-compliance by any person whosoever, the owner, agent, and manager of the mine are each personally guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and to the best of his power enforcing, the provisions of this section, to prevent such contravention or non-compliance.

Payment of persons employed in mines by weight of mineral gotten.

85. (1.) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, such person shall be paid according to the weight of the mineral gotten by them.

Deductions from weight.

(2.) Nothing herein shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in such mine that deductions shall be made in respect of stones or materials other than mineral contracted to be gotten, which shall be sent out of the mine with such mineral, or in respect of any tubs, baskets, or hutches being improperly filled, in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately

employed by him, such deductions being determined by the banksmen or weigher and check-weigher (if there be one), or, in case of difference, by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the person employed in the mine on the other.

(3.) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section he is guilty of an offence against this Act; and, in the event of any contravention of or non-compliance with this section by any person whomsoever, the owner, agent, and manager are each guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and to the best of his power enforcing, the provisions of this section to prevent such contravention and non-compliance.

Men may appoint check-weigher.

86. (1.) The persons who are employed in a mine to which this Act applies, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this Act referred to as "a check-weigher") at the place appointed for the weighing of such mineral in order to take an account of the weight thereof, and if in any mine reasonable facilities are not afforded to him for taking such account the owner and agent of such mine shall each be guilty of an offence against this Act.

Check-weigher not to interrupt the working of the mine.

(2.) The check-weigher shall not be authorised in any way to impede or interrupt the working of the mine or to interfere with the weighing, but shall be authorised only to take such account as aforesaid, and his absence shall not be a reason for interrupting or delaying such weighing.

May be removed by Court if he interrupts.

(3.) If a check-weigher impedes or interrupts the working of the mine, or interferes with the weighing, or otherwise misconducts himself, such owner or agent may complain to the nearest Magistrate's Court, which, if it thinks fit, may call upon the check-weigher to show cause against his removal.

(4.) Such Court shall hear the parties, and, if it thinks that sufficient ground is shown to justify the removal of the check-weigher, may make a summary order for his removal, and he shall thereupon be removed.

(5.) The Court may in every case make such order as to the cost of the proceedings as it thinks just.

Payment of check-weigher.

(6.) The payment of a check-weigher appointed by the persons employed in a mine shall be a charge upon every miner employed in such mine and hewing coal by weight in the said mine, and may be recovered from any such miner.

Where persons employed are paid by measure or gauge.

87. If the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of the last preceding section shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

Weights and Measures Act to apply.

88. "The Weights and Measures Act, 1908," shall apply to the weights and machines used in or at any mine for weighing mineral; and the Inspector shall, once at least in every three months, without unnecessarily impeding or interrupting the working of the mine, inspect and examine in manner directed by the said Act the weighing-machines and weights so used, or the measures or gauges used at or in such mines in lieu of weights.

Offences by owner or agent of mines with respect to general, special, or additional rules.

89. (1.) If any mine is worked, and through the default of the owner or agent thereof special or additional rules have not been established for the same according to the provisions of this Act, or the general, special, or additional rules have not been hung up or affixed, or have not after obliteration or destruction been renewed or restored, or if any of such general, special, or additional rules which ought to have been observed by the owner or agent of such mine are neglected or wilfully violated by any such owner or agent, such person is liable to a fine not exceeding twenty pounds; and also

(2.) In case the default or neglect is not remedied with all reasonable despatch after notice in writing thereof given by the Inspector to the owner or agent of such mine, such person is liable to a further fine of one pound for every day during which the offence continues after such notice.

(3.) In default of payment of any such fine, such person is liable to be imprisoned for any period not exceeding one month.

Offences against rules by other persons.

90. Every person, other than as mentioned in the last preceding section, whether or not employed in or about any mine, who neglects or wilfully violates any of the special or additional rules established for such mine is liable for every such offence to a fine not exceeding five pounds, or, in default of payment, to be imprisoned for any period not exceeding one month.

Fine for obstructing Inspector.

91. Every person who wilfully obstructs any Inspector in the execution of this Act, and every owner, agent, or manager of any mine who refuses or neglects to make or produce as hereinbefore required

a plan of the workings of the mine, or to furnish the means necessary for making any entry, inspection, examination, or inquiry under this Act, is liable for every such offence to a fine not exceeding fifty pounds.

Defacing notices.

92. Every person who wilfully pulls down, injures, or defaces any notice hung up or affixed as required by this Act is guilty of an offence against this Act.

Anything which is an offence if done by owner, agent, or manager of mine is an offence if done by miner in that mine.

93. Every person employed in or about a mine, other than an owner, agent, or manager, who is guilty of an act or omission which in the case of an owner, agent, or manager would be an offence against this Act, is guilty of an offence against this Act.

General penalty for offences against Act.

94. Every person who is guilty of an offence against this Act is liable, when no other penalty is fixed by this Act, to a fine not exceeding, if he is an owner, agent, or manager, fifty pounds, and if he is any other person ten pounds, for each offence: and, if the Inspector has given written notice of any such offence, to a further fine not exceeding five pounds for every day after such notice that such offence continues to be committed.

General fine for offences against rules.

95. Every person who wilfully violates or neglects any provision of this Act, or any general or special or additional rule established hereby or hereunder, for the violation or neglect of which no penalty is hereby expressly imposed, is liable for every such offence to a fine not exceeding ten pounds.

\* \* \* \* \*

Governor may direct fine to be paid to person injured or to relatives of person killed.

98. The Governor may direct—

(a.) That any fine imposed for neglecting to send or cause to be sent notice of any accident as required by this Act, or for any offence against this Act which may have occasioned loss of life or personal injury, shall be paid to any relative or among any relatives of the deceased person, or to the injured person, not being a person who occasioned or contributed to the accident or committed the offence; or

Or that portion be paid to person giving information.

(b.) That any portion of any fine recovered under this Act shall be paid to the person giving the information whereby such fine was recovered.

\* \* \* \* \*



Pay-sheet to be supplied.

100. The owner of a coal-mine shall, if requested by the secretary of the local coal-miners' union, supply him with a copy of the latest issue of dockets given to each of those employees of the mine who are subject to an award of the Arbitration Court, showing in respect of each such employee the hours worked, the amount of work performed, and the amount earned.

Qualification for appointment as shift-boss, &c.

101. (1.) No person shall be appointed to the position of shift-boss, deputy, or foreman in a mine unless he has had three years' experience in coal-mining, and has passed an examination by the Inspector of Mines in gases, ventilation, and timbering.

(2.) The Governor may from time to time, by Order in Council gazetted, make regulations prescribing the nature of the examination and the method of conducting the same.

Notice may be served by registered letter.

102. Except as mentioned in section sixty-two hereof, all notices under this Act may be in writing or print, or partly in writing and partly in print; and all notices and documents required by this Act to be served or sent by or to the Minister or an Inspector may be either delivered personally or served and sent by post as a registered letter, and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to produce the receipt for the registration of such letter.

Expenses of administering this Part of Act to be paid out of moneys appropriated.

103. All costs and expenses incident to carrying the provisions of this Part of this Act into effect shall be defrayed out of moneys to be from time to time appropriated by Parliament for the purpose.

Saving of instruments and regulations.

104. All Orders in Council, Proclamations, appointments, awards, orders, rules, and regulations made under Part I of "The Coal-mines Act, 1905," or under any Act thereby repealed, and in force on the coming into operation of this Act, shall continue and be in force as if made under this Part of this Act until new ones are made under this Part of this Act.

All agreements with mine-owner for supply of coal to be deemed suspended during strike in the mine.

105. There shall be implied in every agreement with the owner of a mine for the sale or supply of coal by him from a mine a condition that such agreement shall not be binding on him, but shall be suspended during a strike in such mine, or during such time as the mine is required by the Inspector to be closed down.

\* \* \* \* \*

*State Coal-mines.*

Minister may open and work coal-mines.

111. (1.) Subject to the provisions of this Part of this Act, it shall be lawful for the Minister, on behalf of His Majesty, to open and work coal-mines on land subject to this Part of this Act, and to work coal-mines subject to this Part of this Act, and generally to carry on the business of coal-mining in all its branches.

(2.) All coal-mines opened by the Minister under Part II of "The Coal-mines Act, 1905," or the corresponding provisions of any Act thereby repealed, shall be deemed to be opened under this Part of this Act, and the provisions of this Part of this Act shall apply thereto accordingly.

Powers of Minister for carrying on coal-mining.

112. For the purposes of the last preceding section the Minister, on behalf of His Majesty, may from time to time, in such manner and on such terms as he thinks fit,—

- (a.) Appoint managers, engineers, agents, workmen, and servants; and
- (b.) Construct, erect, or by purchase, lease, or otherwise acquire, buildings, plant, machinery, railways, tramways, hulks, ships, and other fixed or movable appliances or works of any description, and sell or otherwise dispose of the same when no longer required; and
- (c.) After State requirements have been provided for, sell, supply, and deliver coal and other products the result of coal-mining operations; and
- (d.) Enter into and enforce contracts and engagements; and
- (e.) Generally, in so far as is not elsewhere in this Part of this Act sufficiently provided for, do anything that the owner of a coal-mine might lawfully do in the working of the mine, or that is authorised by regulations under this Act.

Powers of Minister in respect of transport of coal.

113. In addition to the powers conferred on the Minister by the last preceding section he may, in such manner as he thinks fit, work any tramway, hulk, ship, or other movable appliance acquired by him under that section for the purpose of supplying and delivering coal.

\* \* \* \* \*

*Application of Profits.*

Sinking fund and depreciation fund to be established out of net surplus profits.

122. After full provision has, in the case of each mine, been made for all outgoings, losses, and liabilities for the year (including interest on securities created and issued in respect of moneys raised as aforesaid, and on moneys paid out of the Consolidated Fund and not re-

couped), the net surplus profits then remaining shall be applied in establishing a sinking fund in respect of debentures issued or moneys to be recouped to the Consolidated Fund as aforesaid, and, subject thereto, in establishing a depreciation fund in respect of capital expended.

Price of coal may be reduced if net surplus profits exceed 5 per cent.

123. If at the close of any financial year it appears in the case of any mine that the net surplus profits for the year, computed as aforesaid, exceed five per centum on the total capital expended, then during the following year the Minister may reduce the price of the coal from such mine to such extent as, on the basis of the previous year's operations, will produce a net surplus profit of five per centum on the total capital expended.

### *Miscellaneous.*

Mines to be managed and worked subject to Part I of Act where applicable.

124. Every coal-mine worked under this Part of this Act shall be managed and worked subject to the provisions of Part I of this Act in so far as the same are applicable, and, in particular, sections seventy-four to one hundred and three and the Second Schedule to this Act shall apply.

Persons appointed under this Act not Civil servants.

125. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations applying any of the provisions of any Act for the time being in force affecting or regulating the Civil Service to any of the persons or classes of persons appointed under section one hundred and twelve hereof.

(2.) Except as provided by any such regulations, the provisions of any such Act shall not apply to any person appointed under the said section, unless at the time of such appointment he was a Civil servant within the meaning of such Act.

Industrial disputes in State coal-mines.

126. (1.) Notwithstanding anything in section one hundred and thirty-two of "The Industrial Conciliation and Arbitration Act, 1908," any society of workers employed in a State coal-mine may be registered as an industrial union of workers under that Act.

(2.) The Minister may from time to time enter into an industrial agreement with any industrial union so registered in like manner in all respects as if the management of the mine were an industry and he were the employer of all workers employed therein.

(3.) If any industrial dispute arises between the Minister and any such union it may be referred to the Court of Arbitration for settlement in the manner provided by section one hundred and twenty-one of "The Industrial Conciliation and Arbitration Act, 1908," in the case

of an industrial dispute between the Minister of Railways and the Amalgamated Society of Railway Servants, and all the provisions of that section shall, *mutatis mutandis*, apply.

Regulations.

127. The Governor may from time to time, by Order in Council gazetted, make such regulations as he thinks necessary for any of the following purposes :—

- (a.) The management of coal-mines under this Part of this Act :
- (b.) The functions, duties, and powers of all persons acting in the management and working of coal-mines under this Part of this Act :
- (c.) The form of the accounts to be kept and the balance-sheets to be prepared in respect of coal-mines under this Part of this Act :
- (d.) The mode in which the sinking funds and other funds connected with coal-mines under this Part of this Act shall be held and administered :
- (e.) Generally any other purpose for which, in the opinion of the Governor, regulations are contemplated or required.

Provisions as to Westport and Greymouth Harbour Boards.

128. In order to preserve the interests of the Westport Harbour Board and the Greymouth Harbour Board the following provisions shall apply in every case where land purchased, acquired, or taken under the powers in that behalf hereinbefore contained is subject to the provisions of " The Westland and Nelson Coal Fields Administration Act, 1877 " :—

- (a.) A sum equal to the rents, royalties, fees, or other moneys which but for the operation of this Part of this Act would have been payable to either of the said Boards in respect of such land shall be paid to such Board out of the proceeds of the sale of coal from such land under this Part of this Act.
- (b.) Such payment shall be made at such time and in such manner as the Minister directs, and the decision of the Minister as to the amount to be paid to each Board under this section shall be final and conclusive.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### ENACTMENTS CONSOLIDATED.

- 1905, No. 15.—" The Coal-mines Acts Compilation Act, 1905 " : Including " The Coal-mines Act, 1905."
- 1906, No. 49.—" The State Coal-mines Account Act, 1906."
- 1907, No. 19.—" The Coal-mines Act Amendment Act, 1907."
- 1907, No. 35.—" The Coal-mines Act Amendment Act, 1907 (No. 2) " : Except section 22.

## SECOND SCHEDULE.

## SPECIAL RULES APPLICABLE TO ALL COAL-MINES.

## MANAGER.

1. THE mine, and all the operative details of the management thereof, shall be under the control and daily supervision of the manager, whose duty it shall be to carry out and see carried out the various provisions of this Act and any Act for the time being in force for the regulation of coal-mines (all hereinafter referred to as "the Coal-mines Acts") so far as incumbent upon him or those acting under his control or direction, and to see that the mine is properly ventilated, and that sufficient materials and appliances are always provided for the proper carrying-out of all necessary operations. He shall be responsible for the appointment of a sufficient number of competent persons to carry out the requirements of the Coal-mines Acts and the special rules, and also to see that the working of the mine is carried on with all reasonable provisions for the safety of the persons employed.

2. The manager shall take all reasonable means for carrying out the requirements of the Coal-mines Acts and special rules, by publishing and, to the best of his power, enforcing them.

3. The manager shall see that an adequate amount of ventilation is constantly produced in the mine to dilute and render harmless noxious gases, to such an extent that the working-places of the shafts, levels, stables, and workings of the mine, and the travelling-roads to and from such working-places, shall, so far as is reasonably practicable, be in a fit state for working and passing therein.

4. The manager shall see that an ample supply of timber, props, sprags, bricks, lime, sand, ropes, brattice-cloth, and other requisite materials are always on the premises, and the underviewer shall see that the same are distributed, and also report any deficiency.

5. The manager shall see that all the provisions contained in the Coal-mines Acts as to the non-employment of women and boys and the employment of youths are strictly enforced.

6. The manager must see that the signals for moving the cages are painted upon a board and placed in a conspicuous position.

## UNDERVIEWER.

7. The manager may appoint one or more underviewers to assist him in the performance of his general and the above special duties, subject, however, to his own general supervision and control.

8. In addition to and without in any way restricting his general duties, the underviewer shall examine all parts of the mine daily, and also all the air-courses of the mine, and all stoppings and brattices connected with the same, and cause remedies to be provided immediately for all defects that may be found on such examinations.

9. The underviewer, whenever practicable, must personally attend to the matters and duties required by the following rules; and the performance and observance of such matters and duties shall not be intrusted to a deputy, except in cases in which the underviewer cannot reasonably perform them, or during his lawful absence. In these cases he may require his deputy or deputies to act for him, and they shall be bound to do and perform all acts, matters, and duties deputed to him or them by the underviewer according to these rules. The authority for deputy to act for underviewer must be in writing.

10. A safety lamp shall be used in making all such examinations as aforesaid.

11. He shall see that a sufficient quantity of timber for props and other purposes is daily supplied to the workmen, and cause the same to be cut in proper lengths and laid down in the working-places. He shall see that all the roads and tramways throughout the mine are kept in a safe and workable state.

12. He shall give all necessary instructions to the workmen in the mine respecting their work, and shall see daily that these rules are duly observed.

13. He shall daily make a correct entry of the readings of the barometer and thermometer in the mine-register, and shall use additional care with the ventilating apparatus and examination of the works during any unusual indications.

14. The underviewer, under the directions of the manager, shall see that locked safety lamps are used, and naked lights excluded wheresoever and whensoever danger from firedamp is apprehended, and shall see that proper caution boards or signals are placed and maintained for the purpose. He shall also examine the lamps, and shall immediately withdraw any that he may find unsafe. The underviewer or his deputy shall see that the roof and the sides in all working-places are properly secured by the persons working in them, and that the roof and sides of every travelling-road be made and kept secure. The underviewer or his deputy shall visit every working-place as often as is practicable during each shift.

15. The underviewer shall not make nor allow any change to be made in the direction of the ventilation of the mine when any person is in the mine beyond the place where such change is proposed; and he shall, where practicable, cause the stables to be ventilated into the return air from the mine.

16. The underviewer or his deputy shall inspect daily the doors in the main airways, and see that they are checked or doubled. No door must be propped or fastened back whilst on its hinges. The underviewer must appoint doorkeepers whenever necessary. Doors only used occasionally by the underviewer or his deputy must be kept securely locked, and only opened by properly authorised persons. All doors must be kept in good repair, and hung so that they will close automatically.

17. The underviewer or his deputy shall see that the airways and air-crossings are kept properly opened, and shall travel through the airways at least once a week; and shall see that the regulators, tight-stoppings, doors, sheets, brattices, and danger-signals are immediately put where required. He shall see that the ventilating-furnaces and other ventilating-apparatus are properly attended to. The underviewer or his deputy must remain underground until the day's work is finished, and see that the doors and sheets are closed, and all the workmen are out of the mine.

18. The underviewer, acting under the direction of the manager, shall see that all places not in actual use are properly fenced across the whole width, so as to prevent persons inadvertently entering the same.

19. The underviewer shall see that all the provisions contained in the Coal-mines Acts and in these special rules relating to the use of gunpowder and other explosive substances used in the mine are strictly enforced.

20. The underviewer or his deputy shall see that proper manholes and signals which are made or provided are kept in good order, according to the provisions of the Coal-mines Acts.

21. The underviewer shall withdraw workmen from working-places which are in any way unsafe, and shall report the same.

#### FIREMEN AND DEPUTIES.

22. The manager shall appoint one or more competent persons to act as firemen or deputies of the mine.

23. In making the examinations provided for by the foregoing rules, the fireman shall mark with chalk the day of the month upon the face of each working-place, as 1, 5, 10, 25, or other numbers, as the case may be. He shall pay particular attention to the edges of the goaves and the gate-end lips. He shall be careful to ascertain that every part of the mine and roadways so to be examined are free from firedamp, chokedamp, or other impurities, and are safe for workmen to enter and work therein; and in case firedamp or other impure air is discovered in any working-place, road, or level, the fireman shall, in the first instance, thoroughly clear the same of such impurity, if that can be done easily,

and shall thereupon report to the miners and other workmen that the same are safe; but if the impurity cannot be readily or at once cleared out, the workmen shall not be permitted to enter such working-places, roads, or levels until the impure air has been, by further appliances, entirely dispelled. He shall prevent workmen entering the roads or working-places until a report has been made that they are safe, and shall see that proper caution-boards are put up when necessary. If no firedamp, chokedamp, or other impurity shall be discovered or suspected to remain after such inspection, the fireman shall so report to the workmen, and allow them to proceed to work, and shall thereupon without delay enter such report in the mine report-book.

24. If from any cause the operations of the mine have been discontinued for an unusual length of time and thereafter resumed, no workmen shall be allowed to enter the mine until the manager or fireman has first entered and reported on the state of the workings; and in discharging this duty the manager or fireman must proceed with great caution, and shall not go further into the workings than he, from his own experience, deems safe; and in case there are reasonable grounds for apprehending the presence of impure air, he shall return to the mine-mouth and remain there until precautionary measures have been applied to restore the proper ventilation of the mine.

25. He shall report to the manager—

(a.) Any deficiency in the amount of ventilation;

(b.) Any violation by workmen of the rule as to entering the mine before inspection;

(c.) Any use or attempted use of gunpowder or other blasting material without permission;

(d.) Any damage done to fences, signals, or marks in the mine;

and he shall fire all shots in every mine in which firedamp has been met with, or in which dry coal-dust exists in dangerous quantities, unless he has written authority to depute the duty to another person.

#### ROADSMEN.

26. The roadsmen, in their different divisions and shifts, shall daily make careful inspection of the whole drawing-roads and headings from the mine-mouth and throughout the mine, and shall keep the same free of all obstructions, and of the fixed height and width necessary for proper passage and ventilation.

27. They shall repair and remedy all damages and defects in the roads, and shall examine, put, and keep in proper condition all trap-doors and sheets, and shall see and enforce that the same be kept close, and, wherever practicable, shall make and keep all trap-doors self-acting.

28. They shall report daily to the mine-manager at the termination of each shift. They shall also report daily to the mine-manager any instance of neglect on the part of the miners in not carrying on their coal-faces or walls in accordance with the plan pursued in working the mine, or in not propping up and securing the roof in those parts of the workings under their care.

29. As removing falls from the roofs of drawing-roadways and air-courses, repairing defects, and supporting loose strata are within the roadsmen's duties, and as they are charged with the maintenance of all drawing-roads and passages in the mine, they are enjoined to proceed with the greatest caution, both for their own safety and the successful execution of their duties. In their operations they must exercise the greatest care, and are required to prevent all other workmen coming near any defective places or interfering with them when at work. They are required to undertake no repairs of unusual magnitude or danger without sufficient assistance and until provided with every necessary material, which shall be supplied to them on application to the mine-manager.

#### MINERS AND OTHER WORKMEN.

30. Every workman now or hereafter employed in any of the works or workings of the mine, whether on surface or underground, shall be subject to these

rules, and shall obey the commands or instructions of the manager, or of the under-viewer, if any, in charge of the mine or part of the mine in which he is working.

31. Workmen are expressly forbidden to proceed towards or into their working-places at the commencement of any shift until it has been intimated to them by the fireman that the travelling-roads and working-places have been examined and are apparently safe to enter.

32. Till such intimation of apparent safety has been made, workmen shall either remain at the pit-head or mouth of the mine or at some other place assigned to them for the purpose. If no such place has been assigned at which to remain they shall always understand that the pit-head or mine-mouth, whichever it may in their case be, is the proper place at which they are required to wait for the requisite intimation.

33. On beginning work at every shift workmen shall be bound to satisfy themselves concerning the safety of their working-places, independently of such intimation as aforesaid, and they shall thereupon work at their appointed coal-faces or other work continuously, industriously, and without unnecessary intermission while the shift continues, and shall obey the orders applicable to the safe and proper prosecution of the colliery-works given them by the mine-manager, overman, or other person for the time being placed over them.

34. If while at work, or at any other time, workmen discover or are informed of the existence of any obstruction in the ventilation of the mine, or any stagnation or impurity of the air of the mine, or any accumulation of gas or water, or of the existence of any defects in the walls, roofs, or any other part of the mine, they shall be bound to give instant information to the mine-manager, overman, or the person in charge of the mine for the time being, so that these defects may be remedied and danger therefrom averted.

35. Workmen are expressly forbidden to go into or improperly near any place throughout the whole mine where danger is known or supposed to exist, except for the purpose of effecting repairs or other necessary work directed by the manager or his overman. They are forbidden to continue working in any part of the coal-face where a sudden outburst of firedamp happens, or where danger from any cause apparently threatens, until the same has been examined by the manager or overman in charge and reported safe or the impurity obviated.

36. Workmen shall, before commencing holing, when the face of the coal does not exceed ten feet in width, set at least one sprag, and one additional sprag for every additional five feet or part of five feet, and shall afterwards keep them set during holing. After taking out the sprags or holing-props, if the coal or other mineral will not fall with wedging or from the effects of the shot, they shall not hole further until they have reset the sprags or holing-props.

37. Every workman shall, under the direction of the underviewer or his deputy, set a sufficient quantity of props and bars for safely supporting the roofs and sides in his working-place. The timber shall be properly set.

38. No workman shall use or allow to be used any gunpowder, except in conformity with the general rules for its use.

39. If from any accident or other cause workmen are at any time unable to find a sufficient supply of props when it is unsafe to continue their work without them, they are forbidden to remain at their working-faces; and no workman shall commence or continue to work in any place where he may consider the timber insufficient to support the roof of the mine, or discover any other cause that may render the place unsafe, until such defects have been put right by the person in charge.

#### TRUCKERS AND DRIVERS.

40. Truckers and drivers shall not be permitted to approach or to enter the working-places until the workmen have proceeded to work. Truckers shall carefully convey their loaded trucks to the place of delivery pointed out to them for the reception thereof, and shall place them securely under the supervision of those appointed to take charge.



## MISCELLANEOUS REGULATIONS.

41. As a matter of common safety, all workmen in the mine who observe or come to know of any defect in any road, roof, or air-course, or in any stopping or permanent or temporary brattice, or other appliances or work devised for making, maintaining, and promoting effective ventilation of the mine, shall give notice thereof to the manager or overman, or other person in charge, so that the same may be forthwith repaired or rectified.

42. In like manner every workman engaged in the mine who observes or comes to know of any defect or flaw in the working machinery and gearing used in or about the mine, whereby the efficiency thereof may be impaired, shall be bound to communicate the same as above.

43. No workman shall on any pretence whatever be allowed to introduce into the mine any stranger without the sanction of the mine-manager.

44. Workmen and all other persons in the mine who have occasion to pass through any trap-door or sheet shall thereupon closely shut the same, and shall on no account leave it open. On discontinuing work at the end of a shift care must be taken by every workman closely to shut all trap-doors and sheets, and thereby allow of the proper current of air necessary for ventilation being constantly circulated; and no person shall injure a door or leave it open, break down or interfere with a stopping or a brattice, obstruct or damage an air-course, air-crossing, or air-pipe, or remove a caution-board or danger-signal, or do anything to interfere with the proper working of the mine without an order from the underviewer or his deputy.

45. All workmen are especially forbidden to throw into, deposit, or leave coal, wood, stone, rubbish, or materials of any kind in any air-course or road so as to interfere with or hinder the air passing into and through the mine.

46. All workmen are prohibited from entering or remaining in any place throughout the whole mine where not absolutely required by duty at the time.

47. Workmen and all other persons are prohibited from defacing or removing marks which may be made in any part of the workings in connection with the survey of the mine or for the guidance of the workmen in their operations. All workmen are forbidden to displace, injure, or damage in any way the coal-pillars, props, trucks, rails, or any part of the machinery, gearing, or apparatus.

48. Blasting is strictly prohibited, unless with the express permission of the manager or underviewer.

49. No person shall leave any light in any part of the mine when leaving his work.

50. Shots must be rammed with soft material not likely to strike fire, and in no case shall coal-dust be used for the ramming.

51. When a shot has missed fire it shall not be unrammed, but shall be reported to the underviewer or his deputy, and the place shall not be approached without the permission of the underviewer or his deputy.

52. Meetings of workmen in a body within the workings, or in any of the roads or air-courses of the mine, are strictly prohibited.

53. No person shall be permitted to enter or to continue in or about the mine or works while in a state of intoxication. No intoxicating liquor, on any pretence whatever, except in cases of necessity and with the consent of the manager, shall be taken into the mine.

54. No person shall ride upon any truck without the permission of the manager. No person shall go before any truck on any incline, brow, or slope unless duly authorised. Every person working on any incline, brow, or slope shall secure his truck from getting loose, and, before he attempts to take a truck down, shall ascertain that he has proper scotches or other means for stopping it on the way when required. He shall not take more than one truck down at a time unless he has the means of holding them, and when on the way he shall keep behind. When machinery is used he shall not, without hooking or other-

wise securing it, place a truck on the plates or rails so that it could run down. The taker-off at the bottom of a steep incline or jig should not be in front of the tub when it is in motion.

55. The furnaceman shall constantly keep clean, brisk fires; ashes shall not be allowed to accumulate upon or under the bars, but when cold they must be removed.

56. The ventilating furnace or apparatus shall not be left either day or night without the order of the manager. In changing shifts the man in charge of the ventilating-apparatus shall not leave his place before the arrival of a substitute. In case of sickness or lawful absence, a furnaceman or an enginemaster must give early and sufficient notice to the manager, so that a substitute may be provided.

57. No person shall use threatening or abusive language towards the manager or other official of the mine.

#### RULES DESIGNED TO PREVENT ACCIDENTS FROM FIREDAMP.

58. The common but highly dangerous practice among miners of testing firedamp escaping from a blower by igniting it with their lamps is peremptorily forbidden.

59. The manager may at any time order that work in the mine, or in any particular portion thereof, shall be carried on with safety lamps only, and in such cases stations will be fixed upon by the manager where the safety lamps will be examined. From these stations no workman is to take a safety lamp without its having been examined by the person appointed for that purpose.

60. The manager shall appoint a competent person or persons who shall examine every safety lamp immediately before it is taken into the workings for use and ascertain it to be secure and securely locked; and in any part of a mine in which the safety lamps are so required to be used they shall not be used until they have been so examined and found secure and securely locked, and shall not without due authority be unlocked; and in the said part of the mine a person shall not, unless he is appointed for the purpose, have in his possession any key or contrivance for opening the lock of any such safety lamp, or any lucifer-match or apparatus of any kind for striking a light. He shall not allow any unlocked lamp to be in any part of the mine, excepting in a lamp-cabin or other station properly appointed for lighting lamps. He must also see that no safety-lamp gauze is used with less than twenty-eight parallel wires to the inch, or less than 784 apertures to the square inch, and that a sufficient number of approved safety lamps are provided.

61. No person shall try for firedamp with a naked light, or brush out or baffle gas. (See Rule 74.)

62. Where safety lamps are used they shall be used with the greatest care. Every person must examine his lamp to see that it is clean and securely locked on taking it from the lamp-keeper.

63. No one shall place a safety lamp on the floor, except when holing, and in all cases at least two feet from the swing of the pick.

64. No one shall have in the mine any unlocked safety lamp in his possession, or a key or any contrivance for opening the same, except properly authorised persons.

65. No person shall work with his safety lamp full of fire, or unlock or unscrew the same, or blow out the flame, or light tobacco or other substance at the gauze, or damage or improperly use the lamp.

66. When a person is using a safety lamp his putter or trucker must not bring a naked light into the place where a safety lamp is used.

67. The lamp-keeper must not deliver out a safety lamp to be used that has less than twenty-eight parallel wires in an inch of the gauze, or which is not furnished with a proper lock and wire-pricker. He must see that each safety lamp, when given out for use, is in good working-order, clean, well trimmed, and securely

locked; and must not allow any greasy waste to accumulate in the lamp-cabin, and must inform the underviewer whenever he finds that a safety lamp has been wilfully or negligently damaged or carelessly used.

68. The manager and underviewer shall have full power to direct the workmen how to use their safety lamps during the time of working, and every workman shall strictly attend to such directions.

69. Should any workman using a safety lamp detect by the usual indications the appearance or presence of firedamp, he is first to pull down the wick with the pricker, or otherwise lower the flame, and then retreat to the lamp-station and give information to the manager, underviewer, or fireman.

70. Workmen are strictly prohibited from continuing to work in a place where such indications have been observed by them, and should the flame continue in the interior of the lamp after the wick has been drawn down, the lamp must then be cautiously removed, and no attempt made to extinguish the flame by any other means.

71. Every person whatever in charge of a safety lamp who loses his light is to proceed to the station where the lamps are examined to have his lamp relighted and examined before being again used.

72. It is expressly directed that any person witnessing any improper treatment of the safety lamps by any one shall give immediate information to the manager in charge of the mine, so that a recurrence of such conduct may be prevented by the offending party being brought to justice.

73. Any person found smoking tobacco in any part of the mine where the safety lamp is used, or found with a tobacco-pipe or lucifer-matches in his possession, shall be liable to be taken before a Magistrate.

74. In places where safety lamps are used no person shall use or have in his possession a naked light; and matches shall not be taken into any part of the mine where gas or firedamp is known to exist under any pretence whatever.

75. If at any time it is found that the mine or any part thereof, by reason of firedamp or any other cause whatever, is dangerous, the manager, underviewer, or fireman, whoever is first made aware of the same, shall immediately order all workmen to withdraw from the mine, or such part thereof as is so found dangerous; and the manager, underviewer, or fireman shall inspect the same with a safety lamp, and make a true report of the condition of such mine or part thereof; and workmen shall not, except so far as may be necessary for inquiring into the cause of danger, or for the removal thereof, or for examination, be readmitted into the mine or such part thereof as may be so found to be dangerous until the same is reported not to be dangerous. Every such report shall be entered in the mine report-book, and signed by the person making the same.

76. No officer in a place of trust shall depute another person to do his work without the sanction of his superior; and no person in a place of trust shall absent himself without having previously obtained the permission of his superior officer for his term of absence.

#### UNDERGROUND WORKMEN.

77. During the time of the mine-drawing every person in descending the shaft shall be under the direction of the banksman, and in ascending the shaft shall be under the direction of the onsetter, and no other person than the banksman and onsetter shall give any signal during such time. No person shall get on or off the cage after the signal to go on has been given, nor until it has settled on the props or reached the bottom. No person shall take with him down or up the shaft tools, rails, props, sprags, or other bulky material, except for repairing the shafts. No person shall get on the cage after the number of persons stated on the board at the pit top and bottom are on. Every workman shall leave the cage immediately when ordered to do so by the banksman or onsetter.

## BANKSMAN AND ONSETTER.

78. The head banksman, subject to the manager's or underviewer's directions, shall have full control over the pit-top and over all persons engaged under him. The onsetter, subject to the manager's or underviewer's directions, shall have full control over the pit-bottom and all persons employed there. No person under the age of eighteen years shall have charge of the pit top or bottom.

79. The head banksman or other appointed person shall be at the mine at the appointed time in the morning, and shall provide a sufficient number of lights on the bank; and before the engine is started, and from time to time during the day, he shall see that the pulleys, ropes, cages, chains, and landing doors or frames are in safe working-condition; and he shall not allow any person to descend the shaft until he has put the loaded tubs into the cage, and the ropes and loaded cages have been run up and down the shaft, and the ropes, chains, cappings, and cages carefully examined by him. If any weakness or defect is found in anything belonging to the pit-top, or in the engine or machinery, he must not permit any person to descend or ascend until it is made secure. The banksman shall also attend to the proper signals.

80. The banksman in charge of the pit-top shall not let a stranger go down the shaft without the authority of the manager. The banksman, when he is informed of danger in the shaft, shall not allow any person to go down, unless for the purpose of repairing the shaft. He shall not allow any intoxicated person to descend. He shall himself give the signals, and let no other than appointed persons land the trucks or put them into the cages. He shall listen at the pit-top when any person is in the shaft, and instantly signal the engineman to stop the engine in case of alarm. He shall remain at the pit-top until all the workmen are drawn out.

81. The banksman or onsetter shall not let a youth under sixteen years of age go up or down the shaft unless accompanied by a man, and shall not permit more than the number of persons stated on the board at the pit top and bottom to descend or ascend at one time. The banksman and onsetter shall not allow a person to go down or up against a loaded cage in the same shaft unless it is bratticed, and shall not allow any person to take with him rails, props, sprags, tools, trucks, or other bulky materials, or to get on or off the cage until it has settled upon the props or reached the pit-bottom. The banksman shall send all tools down the shaft in a truck, and props, rails, brattice-boards, and other bulky materials shall be tied securely to the cage or rope by the banksman or onsetter when being sent down or up the shaft. If a rope is working in the shaft for underground planes, no person shall ride in the cage whilst this is running unless the rope be cased.

82. The head banksman shall see that the fencing is placed securely round the top of every shaft when it is not at work.

<sup>5</sup>/<sub>10</sub> 83. The onsetter shall be in the mine at the appointed time in the morning. He shall be at his station and give signals and perform his other duties under these rules, and he shall remain there to see the workmen all safely into the cage and up the shaft at the close of the day.

84. The onsetter shall report to the underviewer any person that gives a signal or disobeys his direction. He shall remain at the bell-handle and give cautionary signals, if necessary, when any person ascends or descends the shaft. He shall only allow appointed persons to put trucks into or take them out of the cages; and he shall see that the coals or materials do not project over the cage.

85. The onsetter shall see that the water-sump is never uncovered when any person is ascending or descending the shaft.

86. The banksman shall keep the cages and pit-top clear.

## SIGNALS.

87. The banksman and onsetter shall alone give the signals for moving the cages, which are as follows :—

When the cage is to be raised from the pit-bottom the bell is to be struck .. .. .	Once.
When persons are about to ascend .. .. .	Three times.
Which the banksman shall answer before the men get on the cage .. .. .	Once.
When persons are about to descend, the banksman shall signal .. .. .	Three times.
Which the onsetter shall answer by signalling .. .. .	Once.
When the persons in the cage are ready, the signal to "Go on" .. .. .	Once.
To "Stop the cage" .. .. .	Once.
To "Lower the cage" .. .. .	Twice.
To "Raise up," after being stopped .. .. .	Four times.

The banksman and onsetter shall not allow any person to ride on the cage without the cover, unless by special permission.

#### BRAKESMAN ON INCLINE AND ENGINE-PLANES.

88. The brakesman shall, during work, see that the machinery, ropes, signals, &c., are in proper working-order, and, if he perceives anything wrong, at once report the same to the underviewer or his deputy. He must be cautious in conducting the trucks, and see that they are securely coupled. He shall pay attention to giving and receiving the necessary signals.

89. The underviewer or his deputy shall see that proper stops and blocks are fixed at the top of each incline. No person shall walk on any surface incline or railway, or ride on any truck or wagon thereon, without permission of the manager; and no person shall walk on any underground incline while the set is in motion.

#### ENGINEWRIGHT.

90. The enginewright or some competent person shall daily inspect the engines, boilers, steam-gauges, water-gauges, feed-pumps, safety valves, indicators, brakes, drums, ropes, chains, cages, and all other machinery used for the purpose of raising men or materials from the mine, and shall cause the same to be in a state of efficient repair.

91. The enginewright or some competent person appointed must daily examine the state of the shaft by which persons ascend or descend, and the guides and conductors therein, and shall make a written report thereon.

92. The enginewright shall see that the walling and timbering of the pumping-shaft and the pumping-apparatus are frequently examined. The fixed and suspended stages, cradles, land-loops, ropes, chains, gin, and capstan shall be examined before being used.

93. The enginewright shall see that competent persons of not less than twenty-one years of age are employed for working the machinery used in lowering and raising persons employed in the mine.

94. The enginewright shall see that the bells and signals required by the Coal-mines Acts are fixed and maintained in working-order, and that the enginewright understands the code of signals.

95. The enginewright shall see that every cage used for the purpose of raising and lowering persons in the shaft has a proper covering overhead.

96. The enginewright shall see that all ropes are carefully attached to the drum, and when the cage is at the pit-bottom there must not be less than two rounds of rope on the drum.

97. When a winding-shaft rope requires "capping" or "splicing" it shall be done under the direction of the enginewright or a competent person appointed by the manager.

98. The enginewright shall report any breakage or derangement of machinery to the manager or engineer.

99. The enginewright or some competent person shall see that each boiler is laid off and cleaned when required; he shall make a careful examination of the same and all its connections, and not allow it to work unless in good working-order.

100. The enginewright shall see that every fly-wheel, and all exposed and dangerous parts of the machinery, are securely fenced.

#### ENGINEMEN AND STOKERS.

101. Each engineman shall, every morning before commencing work, examine his engine and all the machinery connected therewith, and immediately report any defect to the manager or enginewright.

102. The engineman must run the ropes and loaded cages slowly up and down the pit before any person ascends or descends.

103. No one shall interfere with the engine except the engineman. He shall at all times gently lift the cage from the pit-bottom, and carefully drive the engine, and not leave the handle while persons are in the shaft, and shall not allow any person to remain in the engine-house. He shall pay particular attention to the indicators and signals, and shall stop the engine if any defect is perceived.

104. The engineman shall not leave his work whilst any person is underground, except when he is relieved by the engineman coming on the next shift; and in case of sickness or lawful absence he must give early and sufficient notice to the enginewright, so that a substitute may be provided.

105. The engineman shall make himself thoroughly acquainted and act in accordance with the signals laid down in these rules.

106. When work is suspended the engineman shall leave the cages in such a position that they do not impede the ventilation, and so as not to leave the pit-top unfenced.

107. Whilst any person is in the shaft the engineman shall drive the engine at a reduced speed.

108. The engineman or stoker shall from time to time during the day examine the fittings of the boilers, and at once report any defects to the manager or enginewright. The stoker shall from time to time examine the water-gauge, safety valves, and steam-gauges, so as to ascertain the level of the water and pressure of the steam.

109. Any one infringing these special rules renders himself liable to prosecution and for the payment of such fines as are provided by the Coal-mines Acts.

---

# THE COAL-MINES AMENDMENT ACT, 1908.

## 1908, No. 251.

AN ACT to amend "The Coal-mines Act, 1908."

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. This Act<sup>may</sup> be cited as "The Coal-mines Amendment Act, 1908."

Section 38 of Coal-mines Act amended.

2. Section thirty-eight of "The Coal-mines Act, 1908," is hereby amended by adding to subsection one thereof the following words :  
"Such overtime shall be paid at the rate of not less than time and a quarter for all time worked in excess of the said eight hours, and shall be payable notwithstanding the provisions of any award or industrial agreement now or hereafter to be in force. Every miner employed on Sundays or holidays in or about a mine shall be entitled to be paid at the rate of one and a half times his ordinary wages."

Section 27 of principal Act amended.

3. Subsection one of section twenty-seven of the principal Act is hereby amended as follows :—

- (a.) By omitting 'the word "six" wherever it occurs, and substituting the word "eight"; and
- (b.) By adding thereto the following :—

"Provided that in the case of a mine the workings of which are of an opencast nature, and in which eight men or less are employed, the mine-manager, if not the holder of a certificate, shall be the holder of a permit from the Inspector, and the person so permitted by the Inspector shall have not less than three years' practical experience in a similar class of work."

Section 47 of principal Act amended.

4. Section forty-seven of the principal Act is hereby amended by omitting the word "six" in subsection three, and substituting the word "eight."

Crib-time.

5. Section thirty-eight of the principal Act is hereby amended by inserting, after subsection one, the following subsection :—

"(1A.) Every miner shall be allowed at least thirty minutes out of every working-day of eight hours for crib-time, notwithstanding the provisions of any award or industrial agreement."

Underviewers, firemen, and deputies.

6. Subsection one of section one hundred and one of the principal Act is hereby repealed, and the following substituted in lieu thereof:—

“(1.) No person shall be appointed to the position of underviewer or fireman and deputy unless he has had five years’ experience in underground workings in a coal-mine, and has passed an examination in gases, ventilation, and timbering by one or more members of the Board of Examiners and an Inspector of Mines.

“(2.) All persons who for a period of twelve months immediately before the commencement of this Act have held the position of underviewer or fireman and deputy may, on application to the Board of Examiners before the thirtieth day of June, nineteen hundred and nine, and after recommendation by an Inspector of Mines, be granted a certificate of service as underviewer or as fireman and deputy, as the case may be.”

Second Schedule of principal Act amended.

7. The Second Schedule to the principal Act is hereby amended by inserting at the end of rule 57 the following words: “nor shall any manager or other official of the mine use threatening or abusive language towards any person employed in or about the mine.”

## EXTRACTS FROM “THE COMPANIES ACT, 1908.”

1908, No. 26.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Incorporation, Regulation, and Winding-up of Companies and other Associations.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. (1.) The Short Title of this Act is “The Companies Act, 1908.”

\* \* \* \* \*

Wages and salary to be preferential claims, and to rank equally.

249. (1.) In the distribution of the assets of a company being wound up there shall be paid, in priority to other debts,—

(a.) All wages or salary of any clerk or servant in respect of services rendered to the company during four months before the commencement of the winding-up, not exceeding fifty pounds; and



(b.) All wages of any labourer or workman in respect of services rendered to the company during two months before the commencement of the winding-up.

(2.) The foregoing debts shall rank equally one with another, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions.

Liquidator to discharge same upon receipt of sufficient assets.

(3.) Subject to the retention of such sums as are necessary for the costs of administration or otherwise, the liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are sufficient to meet them, as and when such assets come into his hands.

\* \* \* \* \*

---

## EXTRACTS FROM "THE CRIMES ACT, 1908."

1908, No. 32.

---

\* \* \* \* \*

### Conspiracy in trade disputes.

89. (1.) An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be deemed to be unlawful so as to render such persons liable to criminal prosecution for conspiracy if such act committed by one person would not be unlawful.

(2.) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any crime against the State or the Sovereign.

(3.) "A crime" for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable to be imprisoned, either absolutely, or, at the discretion of the Court, as an alternative for some other punishment.

\* \* \* \* \*

### Duty of masters to provide necessaries.

168. (1.) Every one who as master or mistress has contracted to provide necessary food, clothing, or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for omitting without lawful excuse to perform such duty if the death of such servant or apprentice is

caused, or if his life is endangered or his health permanently injured by such omission.

Neglect of master to provide necessities.

(2.) Every one is liable to three years' imprisonment with hard labour who, without lawful excuse, neglects the duty specified in this section so that the life of the servant or apprentice is endangered or his health permanently injured by such neglect.

\* \* \* \* \*

## THE DEATHS BY ACCIDENTS COMPENSATION ACT, 1908.

1908, No. 39.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Payment of Compensation to the Families of Persons killed by Accidents.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. (1.) The Short Title of this Act is “The Deaths by Accidents Compensation Act, 1908.”

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto.

(3.) All matters and proceedings commenced under the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“Child” includes son and daughter, and grandson and granddaughter, and stepson and stepdaughter, and includes also an illegitimate child:

“Parent” includes father and mother, and grandfather and grandmother, and stepfather and stepmother.

Action to be maintainable when death is caused by wrongful act, neglect, &c.

3. Where the death of a person is caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action

and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death was caused under such circumstances as to amount in law to a crime.

Action to be for benefit of family.

4. Every such action shall be for the benefit of the wife, husband, parent, and child of the person whose death has been so caused.

To be brought in name of executor, &c.

5. Every such action shall be brought by and in the name of the executor or administrator of the deceased person, and the jury may give to the parties respectively for whom and for whose benefit the action was brought such damages as they think proportioned to the injury resulting from the death.

Appropriation of proceeds.

6. The amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties in such shares as the jury by their verdict find and direct.

Money paid into Court may be paid in one sum.

7. If the defendant is advised to pay money into Court, it shall be sufficient that he pays it in one sum to all persons entitled under this Act as a compensation for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury; and if the said sum is not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury think the same sufficient, the defendant shall be entitled to the verdict on that issue.

Only one action shall lie.

8. Not more than one action shall lie for the same subject-matter of complaint, and every such action shall be commenced within twelve months after the death of the person deceased.

Plaintiff to deliver full particulars of claim made.

9. In every such action the plaintiff on the record shall be required to deliver to the defendant or his solicitor, together with the statement of claim, full particulars of the person or persons for whom and on whose behalf the action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

Action may in certain cases be brought by persons beneficially interested.

10. (1.) Where in any of the cases provided for by this Act it happens that there is no executor or administrator of the deceased person, or that, there being such executor or administrator, no action as hereinbefore mentioned is within six months after the death of

the deceased person as herein mentioned brought by and in the name of his executor or administrator, then such action may be brought by and in the name or names of all or of any of the persons (if more than one) for whose benefit such action would have been if it had been brought by and in the name of the executor or administrator.

(2.) Every action so brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of the executor or administrator.

---

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1880, No. 15.—“The Deaths by Accidents Compensation Act, 1880.”

1894, No. 28.—“The Legitimation Act, 1894”; Section 6.

## THE FACTORIES ACT, 1908.

1908, No. 59.

AN ACT to consolidate certain Enactments of the General Assembly relating to Factories.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

### Short Title.

1. (1.) The Short Title of this Act is “The Factories Act, 1908.”

### Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:—

### Savings.

- (a.) All offices, appointments, registrations, rules, regulations, registers, orders, records, certificates, warrants, notices, documents, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall endure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“ Arbitration Court ” means the Arbitration Court established under “ The Industrial Conciliation and Arbitration Act, 1908 ” :

“ Asiatic ” means a native of any part of Asia, or of the islands adjacent to Asia or in Asiatic seas, and the descendants of any such native ; but does not include any of His Majesty’s subjects or any person of European or Jewish extraction :

“ Boy ” means, in cases where no other age is expressly mentioned, a male under the age of sixteen years :

“ District Health Officer ” means the Health Officer appointed under “ The Public Health Act, 1908 ” :

“ Factory ” means—

(a.) Any building, office, or place in which two or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale ; but does not include any building in course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building ; but (whatever the number of persons employed therein) includes—

(b.) Every bakehouse (meaning thereby any building or place in which any article of food is baked or prepared for baking for sale for human consumption) ; and also

(c.) Every building or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing such goods for transit ; and also

(d.) Every building or place in which electrical energy is generated or transformed as an illuminant or a motive power for trade or sale, or in which coal-gas or any other form of gas is produced for the like purposes ; and also

(e.) Every laundry (meaning thereby every building or place where laundry-work is performed for hire or reward), whether the persons employed therein receive payment or not ; and also

(f.) Every building or place in which any Asiatic is directly or indirectly employed in laundry-work or any other handicraft, or in preparing or manufacturing goods for trade or sale, or in packing them for transit :

“ Inspector ” means any Inspector of Factories appointed under this Act :

- “ Local authority ” means the Council of the borough or county or the Board of the road or town district in which any factory is situated :
- “ Male worker ” means a male person over the age of sixteen years :
- “ Medical authority ” means any legally qualified medical practitioner appointed as a medical authority under this Act :
- “ Minister ” means the Minister of Labour :
- “ Occupier ” means the person occupying any building, office, or place used or intended to be used as a factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a factory ; and  
     In factories occupied by a body of persons, corporate or unincorporate, the working manager shall also be deemed to be included in the term “ occupier ” :
- “ Person ” includes a body of persons, corporate or unincorporate :
- “ Prescribed ” means prescribed by regulations :
- “ Privy ” includes water-closet, earth-closet, and urinal :
- “ Regulations ” means regulations from time to time in force under this Act :
- “ Woman ” means a female, irrespective of age.

### *Inspectors and Medical Authorities.*

Inspectors may be appointed.

3. (1.) The Governor may from time to time appoint fit persons of either sex (whether qualified to be members of the Civil Service or not) to be Inspectors of Factories under this Act.

(2.) Except as to appointment, every Inspector shall be subject to the laws and regulations affecting the Civil Service.

Inspectors may hold office with other offices.

(3.) An Inspector may hold office as Inspector under this Act in conjunction with any other office or employment which the Governor deems not incompatible with his duties under this Act.

### *Chief Inspector.*

4. (1.) The Governor may from time to time appoint a fit person to be Chief Inspector, and a like person to be Deputy Chief Inspector.

### *Deputy Chief Inspector.*

(2.) The Deputy Chief Inspector shall, under the control of the Chief Inspector, perform such general official duties as he is called upon to perform under this Act or by the Chief Inspector.

(3.) In case of the illness, absence, or other temporary incapacity of the Chief Inspector, or on the occurrence of any vacancy in the office of the Chief Inspector whether by reason of death, resignation, or otherwise, and so long as such vacancy continues, the Deputy Chief Inspector shall act in his name and on his behalf, and while so acting shall have and may exercise all the powers, duties, and functions of the Chief Inspector.

(4.) The fact of the Deputy Chief Inspector exercising any power, duty, or function as aforesaid shall be conclusive proof of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising the Deputy so to do.

Governor may appoint medical authorities.

(1.) The Governor may from time to time—

- (a.) Appoint any legally qualified medical practitioners to be medical authorities for the purposes of this Act; and also
- (b.) Fix the remuneration of medical authorities.

Medical authority not a Civil servant.

(2.) A medical authority appointed under this Act shall not, by reason of such appointment, be deemed to be in the Civil Service.

### *Inspection.*

Powers of Inspectors.

6. Every Inspector may—

- (a.) Enter, inspect, and examine at all reasonable hours by day and night a factory when he has reasonable cause to believe that any person is employed therein, and enter by day any place which he has reasonable cause to believe to be a factory:
- (b.) Take with him in either case a constable to assist him in the execution of his duty:
- (c.) Require the production of the certificate of registration held by the occupier of a factory, or any book, notice, record, list, or other document which the occupier of a factory is by this Act required to keep or exhibit therein, and inspect, examine, and copy the same:
- d.) Make such examination and inquiry as he deems necessary in order to ascertain whether the provisions of this Act, or of any Act relating to the public health, are complied with, so far as respects a factory or the persons employed therein:
- (e.) Examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory, and

require such person to make and sign a declaration under "The Justices of the Peace Act, 1908," of the matters respecting which he is so examined: provided that, on any examination or inquiry by an Inspector, no person shall be required under this section to answer any question tending to incriminate himself: and

- (f.) Exercise such other powers and authorities as may be necessary for carrying this Act into effect.

#### Occupiers to allow entry and inspection

7. (1.) The occupier of a factory, his agents and servants, shall at all times furnish the means required by an Inspector, or by an officer of the local authority, for any entry, inspection, examination, and inquiry, or the exercise of his powers under this Act or any enactment relating to the public health, in relation to the factory.

(2.) Except for the purposes of this Act and the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which in the exercise of such functions he acquires respecting any factory.

#### Obstruction of Inspector.

8. (1.) A person shall be deemed to obstruct an Inspector in the execution of his duties under this Act who—

- (a.) Without reasonable cause delays an Inspector in the exercise of any of his powers or duties under this Act; or
- (b.) Fails to comply with a requisition of an Inspector made under any such power, or to produce any document which he is required by this Act to produce; or
- (c.) Conceals or prevents, or attempts to conceal or prevent, any person from appearing before or being examined by an Inspector.

(2.) Every person who obstructs an Inspector in the execution of his duties under this Act is liable to a fine not exceeding five pounds; and where an Inspector is so obstructed in or about a factory the occupier thereof is liable to a fine not exceeding five pounds, or, when the offence is committed at night, not exceeding twenty pounds.

#### Inspector to have certificate of appointment.

9. (1.) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on applying for admission to a factory he shall, if required, produce such certificate to the occupier.

#### Penalty for forging.

(2.) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any such certificate, or falsely pretends to be an Inspector, is liable to imprisonment with hard labour for any term not exceeding six months.



*Registration of Factories.*

Factory not to be used until registered.

10. (1.) Except as hereinafter provided, it shall not be lawful for any person to occupy or use as a factory any building, office, or place unless the same is duly registered as a factory under this Act.

(2.) Every occupier of a factory who commits a breach of this section is liable to a fine not exceeding five pounds for every day during which the factory is unregistered :

Provided that in the case of a first failure to register no prosecution shall be instituted without the permission of the Chief Inspector.

Particulars to be specified in application.

11. (1.) The application for registration shall be made in writing in the prescribed form to the Inspector by or on behalf of the occupier or intending occupier, and shall specify—

- (a.) The name and situation of the intended factory ;
- (b.) The nature of the work to be carried on therein, and of the motive power (if any) to be used therein ;
- (c.) The maximum number of persons to be employed therein ;
- (d.) The full names of the occupier or intended occupier thereof ;
- (e.) The name or style under which the business of the factory is to be carried on ; and
- (f.) Such other particulars as are prescribed.

Plan to be furnished.

(2.) In addition to his application, the applicant shall also deliver to the Inspector a sketch-plan of the intended factory, to the Inspector's satisfaction.

(3.) In any case where a satisfactory plan has been delivered to the Inspector in connection with any previous application for registration of the same factory, it shall be sufficient if, in lieu of delivering a fresh plan, the applicant refers the Inspector to the previous one.

Inspector to examine intended factory.

12. As soon as practicable after receipt of the application the Inspector shall examine the intended factory in order to satisfy himself that it is suitable for the purpose for which it is to be used, and also that it is in accordance with the plan.

Inspector may require defects to be remedied.

13. (1.) If the Inspector is of opinion that the intended factory or the plan thereof is defective in any respect, he shall, by requisition in writing served on the applicant, specify the defects, and inform him that the intended factory will not be registered until the defects are remedied to the Inspector's satisfaction.

Appeal to local authority from such requisition.

(2.) If the applicant is dissatisfied with the requirements of the Inspector as specified in such requisition he may appeal to the local authority; and in case of the applicant or the Inspector being dissatisfied, either of them may appeal to the District Health Officer, whose decision shall be final.

(3.) After the decision on such appeal to the District Health Officer has been given, the Inspector shall, upon payment of the registration fee as hereinafter provided, register the factory, and issue to the applicant a certificate of registration.

Mode of registration.

14. (1.) The registration shall be effected by entering in a register to be kept for the purpose such particulars relating to the factory as are prescribed.

Certificate of registration.

(2.) The certificate of registration shall be in the prescribed form.

Registration fee.

(3.) The fee specified in the Second Schedule hereto shall be payable on every registration of a factory.

Increased fee payable if employees increased.

15. In any case where during the currency of the registration the number of persons employed in the factory is so increased as to require a larger registration fee, the occupier of the factory shall within seven days thereafter give written notice thereof to the Inspector, and pay the difference in value between the registration fee already paid and the fee payable on such increased number.

Duration of registration.

16. The certificate of registration shall continue in force until the close of the last day of March next succeeding the date of registration.

### *Records and Notices in Factories.*

Records to be kept in factory.

17. (1.) In every factory the occupier shall at all times keep or cause to be kept a record showing with substantial correctness—

- (a.) The names of all persons employed in the factory, together with the respective ages of all such persons who are under twenty years of age;
- (b.) The kind of work of each and every person employed in the factory;
- (c.) The earnings paid per week to each person employed in the factory; and
- (d.) Such other particulars as are prescribed by regulation.

Notices to be exhibited and maintained.

(2.) He shall also at all times cause to be exhibited and maintained in some conspicuous place at or near the entrance of the factory, and in such other parts thereof as the Inspector from time to time directs, and in such a position as to be easily read by the persons employed in the factory, a notice containing—

- (e.) The name and address of the Inspector for the district ;
- (f.) The name and address of the medical authority (if any) for the district ;
- (g.) The official address of the local authority ;
- (h.) The holidays and the working-hours of the factory ;
- (i.) A statement, in the form prescribed by regulations, of the procedure required to be observed in order to claim compensation under “ The Workers’ Compensation for Accidents Act, 1908 ” ; and
- (j.) Such other particulars as are prescribed by regulation.

Fine for default herein.

(3.) If the occupier of a factory makes default in faithfully complying with any of the provisions of this section he shall be liable to a fine not exceeding two pounds for every day such default occurs after the lapse of seven days from the date on which the factory was first registered.

### *Hours of Work in Factories.*

Limits to working-hours of male workers.

18. (1.) Subject to the provisions of this Act, a male worker shall not be employed in or about a factory—

- (a.) For more than forty-eight hours, excluding meal-times, in any one week ; nor
- (b.) For more than eight hours and three-quarters in any one day ; nor
- (c.) For more than five hours continuously without an interval of at least three-quarters of an hour for a meal.

(2.) The foregoing limits of working-hours shall not be deemed to apply to any male worker employed in getting up steam for machinery in the factory, or in making preparations for the work of the factory, or to the trades referred to in the Third Schedule hereto.

(3.) Where in any award of the Arbitration Court, whether made before or after the passing of this Act, provision is made for limiting the working-hours in any trade, this section shall in respect to such trade, and so long as such award continues in force, be read and construed subject to the award.

Rules as to hours of work of women and boys.

19. Subject to the provisions of this Act, a woman or boy shall not be employed in or about a factory—

- (a.) For more than forty-five hours, excluding meal-times, in any one week ; nor
- (b.) For more than eight hours and a quarter, excluding meal-times, in any one day ; nor
- (c.) For more than four hours and a quarter continuously without an interval of at least three-quarters of an hour for a meal ; nor
- (d.) At any time after one o'clock in the afternoon of one working-day in each week as hereinafter mentioned ; nor
- (e.) In the case of women, at any time between the hours of six o'clock in the evening and eight in the morning following ; nor
- (f.) In the case of boys, at any time between the hours of six o'clock in the evening and a quarter to eight in the morning following :

Provided that, with the written consent of the Inspector, seven o'clock in the morning may, during such months as are specified in such consent, be substituted in lieu of eight o'clock in the morning, but so that the hours of work are not extended beyond eight hours and a quarter.

#### Hours of women and boys in woollen-mills.

20. The provisions of the last preceding section are hereby modified in the case of woollen-mills to the extent following, that is to say : Women over the age of eighteen years, and boys, may be employed therein—

- (a.) For not more than forty-eight hours, excluding meal-times, in any one week ; and
- (b.) For not more than eight hours and three-quarters in any one day ; and
- (c.) For not more than four hours and a half continuously without an interval of at least three-quarters of an hour for a meal.

#### Prevention of evasion of working-hours.

21. In order to prevent any evasion or avoidance of the foregoing limits of working-hours, all work done by any person employed in a factory for the occupier elsewhere than in the factory (whether the work is or is not connected with the business of the factory) shall be deemed to be done whilst employed in the factory, and the time shall be counted accordingly.

#### Overtime.

Conditions under which limit of working-hours may be exceeded.

22. (1.) The prescribed number of working-hours may from time to time be extended, but such extension shall not in the case of women and boys be—

- (a.) More than three hours in any day : or
- (b.) More than two consecutive days in any week : or
- (c.) More than thirty days in any year ; or
- (d.) On any holiday or half-holiday.

(2.) On every such occasion no person shall be employed for more than four hours continuously without having an interval of at least half an hour for rest and refreshment.

(3.) Every person who is employed during such extended hours under this section shall be paid therefor at not less than one-fourth as much again as the ordinary rate :

Provided that in the case of persons employed in and at bush saw-mills engaged solely at logging, breaking down, and sawing rough timber the overtime shall be payable only for the extended hours worked during the week in excess of forty-eight hours :

Provided also that when the ordinary rate is by time, and not by piecework, the overtime rate shall not be less than sixpence per hour for those persons whose ordinary wages do not exceed ten shillings a week, and ninepence per hour for all other persons so employed, and shall be paid at the first regular pay-day thereafter.

#### Overtime-book.

(4.) The occupier of a factory shall at all times keep a record-book, called the "overtime-book," wherein shall be entered a correct record showing, in the case of each person who is employed during such extended hours under this section, the name of the assistant, and the respective dates and periods of such employment.

(5.) The overtime-book shall at all times be open to the inspection of the Inspector.

(6.) The Inspector may at any time require the occupier to verify the entries in the overtime-book in such form as may be prescribed by regulations.

#### Special provision as to overtime in fruit-canning factories.

23. The provisions of the last preceding section are hereby modified in the case of fruit-canning factories and jam-factories to the extent that the limitations as to overtime contained in paragraphs (b), (c), and (d) of subsection one thereof need not be observed during the period between the first day of January and the first day of April in any year.

#### Permit for overtime.

24. (1.) It shall not be lawful to extend the working-hours of any woman or boy under section twenty-two hereof unless the occupier of the factory has first obtained from the Inspector a warrant in the prescribed form.

(2.) Written application for such warrant shall be made to the Inspector by the occupier previous to the commencement of the pro-

posed extension, specifying the names of the women or boys to whom the extension is intended to apply, and the period of the extension.

(3.) If the Inspector is of opinion that such extension would be dangerous or hurtful to the health of any of the persons named in the application, he shall refuse to grant a warrant in respect of such persons.

(4.) The occupier shall cause the warrant to be posted in some conspicuous part of the factory during the extended hours specified in the warrant.

(5.) The Inspector shall keep a record of the names of all those women or boys in respect of whom a warrant is granted, and shall note against the name of each the extended hours worked by him or her, so that the full amount of overtime permitted by section twenty-two hereof shall not in any case be exceeded.

(6.) Notice shall, during some part of the working-day immediately preceding that on which the extension is intended to apply, be given to every woman or boy to whom such extension is intended to apply; or, where such notice is impracticable, the occupier shall, in addition to any payment for overtime, provide every such woman or boy who resides at a further distance than one mile from the factory either with a sufficient meal between the hour at which the factory ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than one shilling, such allowance to be paid on the day on which such extension is to apply not later than the hour at which the factory ordinarily closes.

### *Special Provisions as to Women and Boys.*

Restrictions as to deductions from wages; also as to wet spinning, &c.

25. With respect to the employment of women and boys, the following rules shall be observed in every factory:—

- (a.) The occupier of the factory shall not be entitled to make any deduction, set-off, or counter-claim against a claim for wages or other remuneration for work actually done, except to the extent of the special damage (if any) which he proves that he has suffered by reason of the unlawful act or default of the claimant in leaving the employment or being absent from the employment after the work was actually done as aforesaid.
- (b.) A woman or boy shall not be employed in any factory in which wet spinning is carried on, unless full and satisfactory provision is made to protect each of them from being wetted, and, where hot water is used, to prevent the escape of steam into any room in which any of them are employed.
- (c.) A woman shall not be employed in any factory during the four weeks immediately after her confinement.

Provisions as to meals and meal-times of women and boys in factories.

26. With regard to the meals and meal-times of women and boys the following rules shall be observed in every factory :—

- (a.) No woman or boy shall be permitted to take any meal in any room in which any handicraft or manufacturing process is being or within the previous two hours has been carried on, or in which any person is or during the previous two hours has been engaged in work.
- (b.) No woman or boy who is entitled under this Act to an interval for meals shall be permitted to do any work or to remain in any workroom during such interval.
- (c.) Notwithstanding anything contained in this section, where the number of women and boys employed in the factory does not exceed six the Inspector may authorise these women and boys to take their meals in the workroom and to remain therein.
- (d.) Where the number of women and boys employed in a factory exceeds six, the occupier shall provide a fit and proper room in which they may take their meals : provided that the Inspector may authorise a place of shelter within the factory to be used for this purpose if he is satisfied that it is reasonably sufficient for this purpose, and is sufficiently secure from the weather and from public view.
- (e.) The room or shelter referred to in the last preceding paragraph shall be furnished by the occupier of the factory to the Inspector's satisfaction with seats and tables, so as to permit of meals being taken with reasonable comfort and security, and shall not be used for the storage of materials or goods.

*Restrictions as to Age of Persons employed in Factories.*

Restrictions as to age of boys or girls employed in certain factories.

27. With respect to the employment of boys or girls, the following rules shall be observed in every factory :—

- (a.) A boy or girl under fourteen years of age shall not be employed except in special cases authorised in writing by the Inspector :  
Such authorisation shall not be given in the case of a factory in which the total number of persons employed exceeds three.
- (b.) A girl under fifteen years of age shall not be employed as type-setter in any printing-office.
- (c.) A boy or girl under sixteen years of age shall not be employed in any room in which there is carried on—
  - (i.) Any dry grinding in the metal trade ; or
  - (ii.) The dipping of matches of any kind.

- (d.) A girl under sixteen years of age shall not be employed in any factory in which there is carried on—
  - (iii.) The making or finishing of bricks or tiles, not being ornamental tiles ; or
  - (iv.) The making or finishing of salt.
- (e.) A girl under eighteen years of age shall not be employed in any room in which there is carried on—
  - (v.) The process of melting or annealing glass.
- (f.) A boy under eighteen years of age or a woman shall not be employed in any room in which there is carried on—
  - (vi.) The silvering of mirrors by the mercurial process ; or
  - (vii.) The making of white-lead.

Restrictions on employment of boys or girls under sixteen.

28. Without limiting the foregoing restrictions as to the age of employment, the following rules shall be observed in every factory with respect to the employment of boys or girls under the age of sixteen years :—

- (a.) A boy or girl under sixteen years of age shall not be employed in any factory unless the occupier holds from the Inspector a certificate of fitness relating to the boy or girl.
- (b.) The occupier of the factory in which the boy or girl to whom the certificate of fitness relates is employed shall, on demand by the Inspector, produce to him the certificate.
- (c.) The occupier shall also deliver up the certificate to the Inspector as soon as the boy or girl ceases to be employed in the factory, and the Inspector shall hold it for reissue as and when required for the purpose of the future employment of the boy or girl.

Certificate of fitness as to such boys or girls.

29. With respect to every certificate of fitness, the following provisions shall apply :—

- (a.) It shall be in the prescribed form, and may be obtained without fee :
- (b.) It shall specify the full name and age of the boy or girl to whom it relates, and the nature of the employment for which the boy or girl is fit :
- (c.) It may be expressed to apply either to one or more specified factories, or generally to all factories of any specified description or class :
- (d.) It may at any time be extended by the Inspector to any other specified factory or description or class of factories :
- (e.) Such extension may be effected by indorsement of the certificate :



- (j.) The certificate shall not be granted unless the Inspector is satisfied that the boy or girl to whom it relates is of the age specified therein, and is fit for the employment, and also has passed the Fourth Standard examination under "The Education Act, 1908," or some equivalent examination :

Provided that the educational requirement shall not apply in the case of a boy or girl whose age on arrival in New Zealand was over thirteen years, or who, by reason of having lived more than three miles from any available school, has, in the Inspector's opinion, had no reasonable opportunity of complying with such requirement :

- (g.) Evidence as to age may be given by production of a certificate of birth (which, for the purposes of this section, the Registrar of Births shall supply to the Inspector without fee), or by a statutory declaration made by any person competent to depose to the fact :
- (h.) Evidence as to fitness for employment may be given by statutory declaration, or in such other form as the Inspector thinks fit :
- (i.) Every statutory declaration under this section shall be exempt from stamp duty :
- (j.) The certificate of fitness shall not operate to limit or remove any of the restrictions or conditions imposed by the Act in respect of the employment of boys or girls :
- (k.) The Inspector shall keep a register of all certificates of fitness issued by him.

*"Sweating" in Factories.*

Provisions to be observed when work given out to be done elsewhere than in factory.

30. (1.) For the better suppression of what is commonly known as the "sweating evil," the following provisions shall apply in every case where the occupier of a factory lets or gives out work of any description in connection with textile or shoddy material to be done by any person elsewhere than in the factory :—

- (a.) The occupier of the factory shall at all times keep or cause to be kept a record showing with substantial correctness—

(i.) The full name and address of each such person, and the situation of the place where he does the work :

(ii.) The quantity and description of the work done by each such person ; and

(iii.) The nature and amount of the remuneration paid to him therefor.

- (b.) If the work is done elsewhere than in a registered factory, the occupier of the factory by whom the work was let or given out shall cause to be affixed to each garment or other

article upon which the work has been done a label in the prescribed form; and if he makes default in so doing he is liable to a fine not exceeding one pound for each article in respect whereof the default is made.

- (c.) Every person who knowingly sells or exposes for sale any such article to which the appropriate label is not affixed is liable to a fine not exceeding ten pounds.
- (d.) Every person who wilfully removes from any such article the appropriate label before sale is liable to a fine not exceeding twenty pounds.
- (e.) If the person to whom the work is let or given out as aforesaid—
  - (i.) Directly or indirectly sublets the work or any part thereof, whether by way of piecework or otherwise; or
  - (ii.) Does the work or any part thereof otherwise than on his own premises, and by himself or his own workpeople to whom he himself pays wages therefor,—
 that person commits an offence, and is liable to a fine not exceeding ten pounds for each such offence.
- (f.) If the occupier of the factory by whom the work is let or given out as aforesaid knowingly permits or suffers any such offence as aforesaid to be committed he is liable to a fine not exceeding fifty pounds.
- (g.) In any proceedings under this section against the occupier of a factory the knowledge of his servants or agents shall be deemed to be his knowledge.

Certain persons giving out work deemed occupiers of factories.

(2.) For all the purposes of this section every merchant, wholesale dealer, shopkeeper, agent, or distributor who lets or gives out textile or shoddy material to be made up into garments or other articles for sale shall be deemed to do so as the occupier of a factory, and the provisions, obligations, and penalties of subsection one hereof shall extend and apply accordingly.

Fine when work done by employees elsewhere than in factories.

31. Without in any way limiting the operation of the last preceding section, the following provisions shall apply in the case of every factory:—

- (a.) If any person employed in a factory does any work for the factory elsewhere than in the factory, the occupier commits an offence, and is liable to a fine not exceeding ten pounds.
- (b.) The person who, being employed in the factory, does such work elsewhere than in the factory also commits an offence, and is liable to a fine not exceeding five pounds:

Provided that nothing in this section shall be deemed to apply to any work which cannot by reason of its particular nature be performed on the premises.

*As to Payment of Wages.*

Provisions to secure reasonable remuneration to persons employed in factories.

32. In order to prevent persons being employed in factories without reasonable remuneration in money, the following provisions shall apply :—

- (a.) Every person who is employed in any capacity in a factory shall be entitled to receive from the occupier such payment for his work as is agreed on, being not less than five shillings a week for the first year of employment in the trade, eight shillings a week for the second year, eleven shillings a week for the third year, and so on by additions of three shillings a week for each year of employment in the same trade until a wage of twenty shillings a week is reached, and thereafter not less than a wage of twenty shillings a week.
- (b.) Such rate of payment shall in every case be irrespective of overtime.
- (c.) Such payment shall be made in full at not more than fortnightly intervals.
- (d.) If the occupier makes default for seven days in the full and punctual payment of any money payable by him as aforesaid, he is liable to a fine not exceeding five shillings for every day thereafter during which such default continues.
- (e.) Without affecting the other civil remedies for the recovery of money payable under this section to a person employed in a factory, civil proceedings for the recovery thereof may be taken by an Inspector in the name and on behalf of the person entitled to payment in any case where the Inspector is satisfied that default in payment has been made.
- (f.) No premium in respect of the employment of any person shall be paid to or be received by the occupier, whether such premium is paid by the person employed or by some other person; and if the occupier commits any breach of the provisions of this paragraph he is liable to a fine not exceeding ten pounds.
- (g.) In any case where a premium has been paid or received in breach of the last preceding paragraph, or where the occupier has made any deduction from wages, or received from the person employed or from any person on his or her behalf any sum in respect of such premium or employment, then, irrespective of any fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the occupier in civil proceedings instituted by an Inspector in the name and on behalf of the person concerned.

*Certificate of employment.*

33. (1.) The occupier shall, on the request of any person leaving employment in the factory, give to such person a certificate under his hand in the prescribed form stating correctly the period during which such person has been so employed.

(2.) Such person shall not be entitled to demand any increased rate of payment under the last preceding section, in respect of any period of employment after the thirty-first day of October, one thousand nine hundred and five (being the date of the coming into operation of "The Factories Act Amendment Act, 1905"), in any factory other than that in which he is employed, unless he produces to the occupier of the factory in which he is employed the certificate or certificates verifying such employment.

(3.) The occupier shall keep a book in the prescribed form showing the period or periods of employment of each person employed by him, and this book shall be produced at the request of the Inspector.

(4.) Every occupier who refuses or neglects to give any such certificate on the request of any person employed by him, or gives any such certificate knowing the same to be false, or fails to keep correctly or to produce the said book, is liable to a fine not exceeding twenty pounds.

*Noxious Processes.*

Meals not to be taken in room where noxious process carried on.

34. (1.) The Governor may from time to time declare any specified handicraft, process, or employment to be noxious within the meaning of this section.

(2.) In every case where in a factory any such noxious handicraft, process, or employment is carried on no person employed in the factory shall be permitted to take any meal in any room or place in which such noxious handicraft, process, or employment is being or during any previous part of the day has been carried on, anything in section twenty-six hereof to the contrary notwithstanding.

*Holidays in Factories.*

What holidays to be allowed without deduction from wages.

35. Except as hereinafter provided, the occupier of a factory shall allow to every boy under eighteen years of age and every woman employed in the factory the following holidays, that is to say:—

- (a.) A whole holiday on every Christmas Day, New Year's Day, Good Friday, Easter Monday, Labour Day, and birthday of the reigning Sovereign: provided that when Christmas Day, New Year's Day, or the birthday of the reigning Sovereign falls on a Sunday, then the whole holiday shall be allowed on the next ensuing Monday: and also
- (b.) A half-holiday on every Saturday from the hour of one of the clock in the afternoon.

## Poll of electors as to half-holiday in factories.

36. (1.) In every borough or town district (other than a borough included in any of the combined districts of Dunedin, Christchurch, Wellington, or Auckland, as existing under "The Shops and Offices Act, 1908") a poll of the electors of the borough or town district shall from time to time be taken in accordance with this section on a proposal that the weekly half-holiday provided for by the last preceding section shall be allowed in that borough or town district on the same day as the day appointed as the statutory closing-day for shops in that borough or town district under "The Shops and Offices Act, 1908."

(2.) If on such poll being taken a majority of the votes given thereat is in favour of the said proposal, the result of the poll shall be notified to the Minister under the hand of the Clerk of the Borough Council or Town Board, as the case may be; and the Minister shall thereupon publish in the *Gazette* a notice that in the said borough or town district the half-holiday under this Act shall, on and after a date to be specified in such notice, be allowed on the same day as the day which is for the time being and from time to time appointed as the statutory closing-day for shops in that borough or town district instead of on Saturday; and every such notice shall have the force of law in accordance with the tenor thereof, notwithstanding the provisions of the last preceding section.

(3.) So long as the said notice remains in force all the provisions of this Act with respect to the half-holiday to be allowed on Saturday shall apply to the half-holiday to be allowed in pursuance of such notice.

(4.) If on such poll being taken a majority of the votes given thereat is against the said proposal, the result of the poll shall be notified to the Minister under the hand of the Clerk of the Borough Council or Town Board, as the case may be; and the Minister shall publish in the *Gazette* a notice that in the said borough or town district the half-holiday to be allowed shall, as from a date to be specified in such notice, be allowed on Saturday, in accordance with this Act; and every such notice shall have the force of law in accordance with the tenor thereof, and shall supersede any prior notice published under the authority of this section.

(5.) The validity of any notice published by the Minister in pursuance or intended pursuance of the provisions of this section shall not be questioned in any Court.

(6.) Every such notice shall continue in operation until superseded by a subsequent notice published under the authority of this section.

(7.) Until and unless a poll is so taken in any borough or town district, and a notice has been gazetted in accordance with this section, the provisions of section thirty-five hereof shall apply to that borough or town district as if this section were not in force.

(8.) Every such poll shall be taken in accordance with "The Local Elections and Polls Act, 1908."

(9.) No such poll shall be taken except in pursuance of a petition signed by not less than one-tenth of the electors of the borough or town district and presented to the Borough Council or Town Board, and on the presentation of such petition in accordance with this section it shall be the duty of the said Council or Board to take a poll accordingly.

(10.) No such poll shall be taken in any borough or town district except on the day fixed for a general election of the members of the Council or Board of that borough or town district, and every such poll shall be taken simultaneously with the poll (if any) which is taken in respect of such election :

Provided that the first poll taken under the authority of this section in any borough or town district may, on such petition as aforesaid being presented, be taken at any time on a day to be fixed by the said Council or Board.

Exceptions as to newspapers.

37. (1.) Nothing in this Act shall be deemed to prevent—

(a.) Any person being employed in a printing-office on the half-holiday for the purpose of printing or publishing an evening newspaper, or on one evening of the week (excepting Saturday) for the purpose of printing or publishing a weekly newspaper ; nor

(b.) The substitution of other working-days as whole holidays in lieu of Easter Monday, Labour Day, and the Sovereign's birthday in the case of persons employed in the printing and publishing of newspapers ; nor

(c.) Any boy, whether above or below the age of sixteen years, being employed on the half-holiday in the publishing or delivering of a newspaper.

(2.) For the purposes of this section " newspaper " means a paper containing public news, printed and published in New Zealand periodically or in parts or numbers, at intervals not exceeding twenty-six days between one publication and the next.

Wages payable to wage-earners for holidays.

38. (1.) Wages for each whole or half-holiday shall, in the case of each boy under eighteen years of age or woman, be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day thereafter.

(2.) This section shall apply to every boy under eighteen years of age or woman who is paid by time-wages, whatever the time, and has been employed in the factory for at least twenty days during the four weeks next preceding the whole holiday, or for at least five days during the month next preceding the half-holiday, whether such employment has been on consecutive days or not, and whether the person employed has been continuously in the service of the occupier or not.

*Accidents in Factories.*

Rules to be observed to prevent accidents from machinery.

39. (1.) For the better prevention of accidents the following rules shall at all times be observed in a factory in which machinery is used :—

- (a.) Where belts or pulleys are used, the factory shall be furnished with belt-shifters or other safe mechanical contrivances for the purpose of throwing the belts and pulleys on and off, and wherever practicable loose pulleys shall be provided.
- (b.) All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws, and other dangerous appliances shall be fenced off or otherwise supplied with efficient safeguards.
- (c.) The safeguard shall not be removed whilst the appliance to which it relates is in use, unless for the purpose of making immediate repairs, and in such case the safeguard shall be replaced as soon as the repairs are effected.
- (d.) If the Inspector considers any appliance to be unsafe he may prohibit its use by affixing to it a notice under his hand containing the words “ The use of this [*Name of the appliance*] is prohibited, as being unsafe.”
- (e.) Such notice shall not be removed except by the Inspector, nor until he is satisfied that the appliance has been rendered safe ; and until the notice is removed by him the appliance shall not be used.
- (f.) Without limiting the operation of the foregoing rules, the Inspector may, by requisition to the occupier, require the occupier to repair or safeguard any specified appliance, or to remedy any specified defect in the machinery.

Fine for default.

(2.) If default is made in faithfully observing any rule specified in this section, the occupier of the factory is liable to a fine not exceeding ten pounds, and to a further fine not exceeding two pounds for every succeeding day during which the default continues.

Fine for death or injury through default of occupier.

40. (1.) If in consequence of any such default as aforesaid an accident occurs causing death or bodily injury to any person, then, in addition to the occupier's liability under the last preceding section, he is liable to a fine not exceeding one hundred pounds, the whole or any part of which may, in such manner as the Minister directs, be applied for the benefit of the person injured, or of his family or dependants if he has been killed.

(2.) The fine imposed by this section shall be deemed to be in lieu of any fine imposed by “ The Inspection of Machinery Act, 1908,” in respect of the corresponding default under that Act.

## Limitation.

(3.) The occupier shall not be liable under this section if proceedings under the last preceding section to recover the fine thereby imposed in respect of the default have been taken and dismissed on the merits within one month before the accident occurred.

(4.) Nothing in this section shall operate to in any way relieve the occupier from any liability which, independently of this Act, he may incur for damage or compensation in respect of the accident or its consequences.

## Procedure in case of accident or bodily injury.

41. In every case where there occurs in a factory an accident causing death or serious bodily injury to any person employed therein the following provisions shall apply:—

- (a.) The occupier shall forthwith serve the Inspector, and also the medical authority (if any), with written notice specifying the nature of the accident, the name and residence of the person killed or injured, his age, and the place (if any) to which he has been removed.
- (b.) If the notice is not duly served as aforesaid within forty-eight hours after the accident occurred, the occupier shall be liable to a fine not exceeding ten pounds.
- (c.) As soon as practicable after receiving the notice the medical authority, and also the Inspector, shall proceed to the factory and make full inquiry into the cause and nature of the accident, and the nature and extent of the injuries.
- (d.) Within twenty-four hours after making such inquiry the medical authority shall send a written report thereof to the Inspector.
- (e.) For the purpose of such inquiry the medical authority shall have all the powers of entry, investigation, examination, and otherwise which by this Act are conferred upon an Inspector, and may exercise the same not only at the factory, but also in any room, building, or place to which the person killed or injured has been removed.
- (f.) In respect of each accident inquired into and reported on by the medical authority, he shall be entitled to receive from the Board such fee as is prescribed by regulations under this Act.
- (g.) For the purposes of this section the expression “serious bodily injury” means an injury which is likely to incapacitate the sufferer from work for at least forty-eight hours.

## Rules as to noxious or dangerous gas or material.

42. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations prescribing rules to be observed in any factory where any noxious or dangerous gas or material exists, or is generated or used.



(2) Such rules shall be deemed to be additional rules under section thirty-nine hereof, and the provisions of sections thirty-nine to forty-one hereof shall accordingly apply.

(3.) For the purposes of this section the Governor may from time to time, by notice in the *Gazette*, declare any gas or material to be noxious or dangerous.

### *Fires in Factories.*

Rules to prevent accidents from fires.

43. For the better prevention of fires, and of accidents resulting from fires, the following rules shall be observed in every factory in which work is carried on by more than three persons upon a floor situate above the ground floor :—

#### Fire-escapes.

- (a.) Efficient fire-escapes shall be provided for every workroom situate on any such first-mentioned floor.
- (b.) The plan and system of fire-escape may be prescribed by regulations : and, in so far as no such regulation is made, the Inspector, if not satisfied with the plan or system adopted, may by requisition to the occupier direct another specified plan or system to be provided.

#### Doors to open outwards.

- (c.) Every door, whether internal or external, shall be hung so as to open outwards.
- (d.) At all times while persons are actually working in a room every door of the room, or of any passage or staircase leading to the room, or serving as means of entrance or exit for the room, shall be kept clear and unfastened, so as to admit of quick and easy egress.
- (e.) The provisions of the two last preceding paragraphs shall apply also to the outer or entrance door by which the persons employed in the factory usually enter or leave, whether such door belongs to the factory or not.
- (f.) Staircases and steps leading from one floor to another, or to the ground, shall be provided with substantial handrails, and shall also, if the Inspector by requisition to the occupier so directs, be provided with slats or some other sufficient appliance to prevent slipping.
- (g.) If the Inspector considers any stairway or passage to be so steep, narrow, winding, intricate, insecure, or otherwise defective as to be unsafe, he may by requisition to the occupier direct the defect to be remedied.

### *Sanitation of Factories.*

Sanitation rules.

44. For the better sanitation of factories the following rules shall at all times be observed in a factory :—

- (a.) The factory shall be kept in a cleanly state, and free from any smell or leakage arising from any drain, privy, or any other nuisance.
- (b.) Sufficient privy accommodation shall be provided for all persons employed in the factory, and where members of both sexes are employed, not being members of the same family, the accommodation shall be entirely separate for each sex, so as to insure privacy.
- (c.) The factory shall not be overcrowded so as to be hurtful to the health of the persons employed therein.
- (d.) The factory shall be ventilated in such manner as to provide a sufficient supply of fresh air, and to carry off and render harmless, as far as practicable, all gases, fumes, dust, and other impurities arising in the course of the work carried on in the factory.
- (e.) Without limiting the operation of the last preceding paragraph, the Inspector may by requisition to the occupier require the occupier to supply fans or other efficient appliances to carry off and render harmless all such gases, fumes, dust, and other impurities.
- (f.) The Inspector may from time to time, by requisition to the occupier, determine, as to the factory or any workroom therein, what space of cubic or superficial feet shall be reserved for the use of each person working therein, and the occupier shall cause the same to be reserved accordingly, and such space shall not be less than that prescribed from time to time by regulations.
- (g.) The space so to be reserved shall not be deemed to be reserved unless it is kept properly lighted and ventilated, and clear from all materials, goods, or tools other than those actually used or required by the person for whom the space is to be reserved.
- (h.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the factory.

Special sanitary rules for bakehouses.

45. In the case of every factory which is a bakehouse the following rules shall at all times be observed :—

- (a.) Once at least within every six months all the inside walls, ceilings, and roofs of the factory, and of every room therein, and all the passages and staircases therein, shall be thoroughly cleansed with lime-wash, or with such other cleansing agent as is approved by the Inspector :

Provided that if within the previous seven years they have been properly oil-painted with at least three coats of paint, or varnished with at least three coats of varnish, then soap and hot water may be used instead of lime-wash.

- (b.) For the purposes of the last preceding paragraph, the occupier shall furnish from time to time evidence to the satisfaction of the Inspector as to how and when the aforesaid portions of the factory and its rooms were cleansed, painted, or varnished, as the case may be.
- (c.) A place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping-place unless such place is effectually separated from the bakehouse by a partition extending from floor to ceiling, and is also fitted with an external glazed window of at least nine square feet in area, of which at least four and a half square feet are made open for ventilation.
- (d.) A privy or ashpit shall not be suffered to exist within or to be connected directly with the bakehouse.
- (e.) For the purposes of the two last preceding paragraphs "bakehouse" means any room or part of the factory in which flour, bread, or other food products are kept or treated or any baking or bread-making process is carried on.
- (f.) Every cistern or pipe for supplying water to the factory shall be separate and distinct from any cistern supplying water to a privy.
- (g.) A drain or pipe for carrying off fecal matter or sewage shall not have an opening within the factory.

Fines for defaults in respect of bakehouses.

46. (1.) If in any factory, being a bakehouse, default is made in faithfully observing any of the rules prescribed by the last preceding section, the occupier of the factory is liable to a fine not exceeding two pounds on a first conviction, and not exceeding five pounds on any subsequent conviction for the same default.

(2.) If any person lets as a bakehouse, or suffers to be occupied or used as a bakehouse, any building or room with respect to which any of the provisions of paragraphs (d), (f), or (g) of the last preceding section are not duly complied with at the time when he so lets it or suffers it to be occupied or used as aforesaid, that person is liable to a fine not exceeding two pounds, and to a further fine not exceeding ten shillings for every day during which it is so occupied or used as aforesaid while such non-compliance continues.

Assistant's health likely to contaminate articles of food.

47. (1.) If any person employed in or in connection with any factory in the manufacture, handling, or delivery of any bread, meat, milk, confectionery, or other article for human consumption, or of any textile fabric, is in a state of health which, in the opinion of the Inspector, is likely to convey germs of disease or other contamination to any of the said articles, the Inspector shall forthwith report the same to the District Health Officer.

(2.) The Inspector shall serve upon the person so employed, either personally or by posting the same addressed to him at the factory, a notice requiring him to submit himself for examination to a medical authority.

(3.) The Inspector shall serve a copy of such notice upon the occupier of the factory.

(4.) Immediately upon the service of such notice the person so employed shall cease to do any work in the factory until he has produced to the Inspector a certificate from the medical authority that his state of health is not likely to convey germs of disease or other contamination to any of the said articles.

(5.) If the person so employed does any work in or about such factory after service of the said notice upon him, without first obtaining the said certificate, he is liable to a fine not exceeding two pounds for every day on which he works in breach of this section.

(6.) If the occupier of the factory, after service upon him of the said notice, employs such person he is liable to the same fine as is hereinbefore provided in the case of the person so employed.

#### Provisions extended to factories manufacturing food.

48. The provisions of the three last preceding sections shall, *mutatis mutandis*, extend and apply in the case of every factory wherein is carried on the manufacture, preparation, or treatment of any article of food for sale for human consumption.

#### Power to extend provisions as to lime-washing.

49. The Minister may from time to time, by notice in the *Gazette*, extend in whole or in part, or with modifications, as he thinks fit, the provisions of paragraphs (a) and (b) of section forty-five hereof to any other class or description of factory, and in such case those provisions shall extend and apply according to the tenor of the *Gazette* notice.

#### Nuisance adjoining factory to be removed.

50. (1.) If in any building, yard, or place adjoining a factory there exists any nuisance or other sanitary defect which, in the opinion of the Inspector, is likely to injuriously affect the proper sanitation of the factory or the health of the persons employed therein, he may, by requisition to the owner or occupier of such building, yard, or place, require him to effectually abate such nuisance or amend such defect within a time named in the requisition.

(2.) If such owner or occupier fails to duly and faithfully comply with such requisition he is liable to a fine not exceeding five pounds for every day during which such non-compliance continues.

(3.) The Inspector shall not issue such requisition until he has notified the local authority of the nuisance or sanitary defect, nor unless

the local authority has failed to cause the nuisance or sanitary defect to be abated or amended within a reasonable time after receiving such notification.

(4.) The provisions of section sixty-one hereof shall, *mutatis mutandis*, apply in the case of proceedings under this section.

Provisions to check spread of disease by infection, &c.

51. In order to check the risk of disease being spread by infection or contagion the following provisions shall apply :—

(a.) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose, in any factory or dwellinghouse—

(i.) Wherein, to the knowledge of the occupier of such factory or dwellinghouse, there resides, or works, or is employed any person suffering from any infectious or contagious disease ; or

(ii.) Wherein any such person has so resided, or worked, or been employed at any time during the previous fourteen days, unless and until the factory or dwellinghouse, and all such goods and materials therein, have been disinfected to the satisfaction of the Inspector.

(b.) If any such goods or materials are found to be or to have been in any factory or dwellinghouse in breach of this section, the Inspector may cause them to be seized, removed, and disinfected at the expense in all things of the owner ; and, on the summary application of the Inspector, a Magistrate may order them to be destroyed by the Inspector at the expense in all things of the owner.

(c.) All expenses for which the owner is liable under this section shall be recoverable in a summary way, in like manner as in the case of a fine.

Proceedings as to nuisances or sanitary defects may be taken under other Acts.

52. Where it appears to an Inspector that any nuisance or sanitary defect in or in relation to a factory, or to any premises adjoining or contiguous to a factory, may be more effectually remedied or dealt with under any enactment relating to the public health or to local government than under this Act, the following provisions shall apply :—

(a.) He shall give notice of such nuisance or sanitary defect to the local authority within whose jurisdiction the nuisance or defect exists, and it shall be the duty of that local authority to take all necessary action under such enactment in order to effectually abate such nuisance or remedy such defect ; and, in case of such local authority failing to act within seven days, the Inspector shall apply to the District Health Officer, whose decision shall be final.

- (b.) For the purposes of this Act, or of any such enactment as aforesaid, the Inspector may take with him into a factory any Health Officer, Inspector of Nuisances, surveyor, or other officer of the local authority; and every such officer may at all reasonable times enter and inspect any factory.
- (c.) If any such officer is obstructed or hindered in the exercise of any of the powers conferred upon him by this section, the person obstructing or hindering him commits an offence.
- (d.) For the purposes of this section the Inspector of Factories shall have the same power of entry and inspection of adjoining or contiguous premises as if the same were part of the factory.

*Offences, Penalties, and Procedure.*

Rules and requirements of Act to be complied with.

53. In every case where under this Act—

- (a.) Any rule is required to be observed in a factory; or
  - (b.) Any requisition of an Inspector is served on the occupier of a factory; or
  - (c.) Any requirement, obligation, or provision is imposed or enacted with respect to a factory, the conduct of its business, the treatment of the persons employed therein, or otherwise,—
- the occupier shall cause each such rule, requisition, requirement, obligation, or provision to be faithfully observed and complied with, and if he fails so to do he commits an offence.

Offences as to certificates and other documents.

54. Every person who—

- (a.) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, or other document which an Inspector is authorised to give or issue under this Act; or
- (b.) Uses any such document knowing the same to be forged, counterfeited, or fraudulently altered; or
- (c.) Personates any one named in any such document; or
- (d.) Wilfully makes any false entry in any register, record, notice, or book required or authorised under this Act; or
- (e.) Gives, or issues, or uses any certificate, consent, notice, or other document under this Act knowing the same to be untrue in any material particular.—

commits an offence, and for each such offence shall, if no specific penalty is hereinbefore provided, be liable to a fine not exceeding twenty pounds, or to imprisonment with or without hard labour for a term not exceeding three months.

Fine on parent if young person employed in breach of Act.

55. In every case where a person under sixteen years of age is employed in a factory in breach of this Act, then, irrespective of the

fine to which the occupier of the factory thereby exposes himself, the parent of the person so employed commits an offence, and is liable to a fine not exceeding five pounds for such offence, and to a further fine not exceeding one pound for each day during which such offence continues, unless he satisfies the Court that the offence was committed without his consent, connivance, or default.

Evidence as to person employed in breach of Act.

56. In any proceedings against the occupier of a factory for employing any person therein in breach of this Act, the fact of the person being found in any room in which the work of the factory is going on shall be conclusive evidence that the person was then being employed in the room, unless the defendant satisfies the Court that the person was not being employed, but was there either against the orders and without the knowledge, consent, or connivance of the occupier, or for the sole purpose of bringing food for persons employed in the factory.

Fine where no specific penalty provided.

57. Every person who commits any offence against this Act for which no specific penalty is elsewhere provided is liable to a fine not exceeding ten pounds for each such offence, and if the offence is a continuing one, then to a further fine not exceeding five pounds for each day on which the offence is continued after the first day.

Proceedings to be before Magistrate alone.

58. All proceedings in respect of offences against this Act shall be taken in a summary way on the information or complaint of an Inspector, and shall be heard before a Magistrate alone.

Occupier may have actual offender charged.

59. Where the occupier of a factory is charged with an offence or is liable for an offence, the following provisions shall apply :—

- (a.) On the information of the occupier, made before the charge against himself is disposed of, any other person whom he alleges to be the actual offender may be brought before the Magistrate on the same charge, and, to enable both charges to be heard together, the charges against the occupier may be adjourned for such time as the Magistrate thinks reasonable.
- (b.) If the charges are heard together, and the offence is proved, but the Magistrate finds that it was committed in fact by the said other person, without the knowledge, consent, or connivance of the occupier, and, further, that the occupier had done all that could reasonably be expected of him to prevent the offence, then the said other person shall be deemed to be liable, and shall be convicted, and not the occupier.

- (c.) If, before proceeding against the occupier, the Inspector is satisfied of such other person's liability, he shall proceed first against him instead of against the occupier, whereupon the provisions of the last preceding paragraph shall, *mutatis mutandis*, apply, and if such other person is convicted (but not otherwise) the occupier shall cease to be liable.

Provisions where offence relates to sanitation or accidents.

60. In any proceedings against the occupier of a factory in respect of the non-observance of any rule under this Act relating to sanitation or to the prevention of accidents, the following provisions shall apply :—

- (a.) The Magistrate, in addition to or in lieu of imposing a fine, may, by order, require the defendant to do any specified work or to adopt any specified means for the purpose of preventing the further non-observance of the rule, and may specify a time within which the order shall be obeyed.
- (b.) The time so specified may be extended by the Magistrate on the application of the defendant.
- (c.) If the order is made in lieu of imposing a fine, then the Magistrate shall adjourn the proceedings until the expiry of the time specified in the order; and if the order is duly obeyed, he may, if he thinks fit so to do, impose no penalty in respect of the offence.
- (d.) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant commits an offence, and is liable to a fine not exceeding five pounds for every day during which such default continues.
- (e.) Such last-mentioned fine shall be irrespective of the fine in respect of the original offence.

Procedure in respect to proceedings.

61. With respect to proceedings against any person for any offence against this Act, the following provisions shall apply :—

- (a.) The proceedings shall be commenced within one month after the offence was committed if the maximum fine does not exceed five pounds, and within two months thereafter in any other case :

Provided that if the offence consists of non-compliance with the Inspector's requisition, and notice of appeal has been given, then the proceedings shall not be commenced, nor shall the aforesaid limit of time begin to run, until the appeal has been disposed of.

- (b.) The proceedings shall be deemed to be commenced when the information or complaint is laid or made.



- (c.) For the purposes of the aforesaid limit of time a continuing offence shall be deemed to be committed on the latest day on which it is continued next preceding the commencement of the proceedings.
- (d.) It shall be sufficient to state the name of the ostensible occupier of a factory, or the style or title under which the occupier is usually known or carries on business.
- (e.) It shall lie on the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary to negative the same in the information or complaint.

Right of appeal.

62. The Inspector and every other person who may be dissatisfied with the judgment of the Court on any summary proceedings under this Act may appeal to the Supreme Court or to a District Court in the manner provided by "The Justices of the Peace Act, 1908."

Civil liability to pay overtime or wages not affected.

63. The payment by an occupier of any fine under this Act for non-payment for overtime, or for non-payment of wages or salary in respect of a holiday, shall not relieve him from his civil liability to the person employed.

### *Miscellaneous Provisions.*

Adjacent buildings included in factory.

64. Where the operations of a factory are carried on in several adjacent buildings, enclosures, or places, all of them shall be included as one and the same factory, notwithstanding that they may in fact be separated or intersected by a road, street, or stream, or by any building, enclosure, place, or space not forming part of the factory.

Mode of computing persons employed in factory.

65. In counting for any of the purposes of this Act the number of persons employed in a factory, the occupier, or, if the occupier is married, then the occupier together with husband or wife, as the case may be, shall be considered as one person so employed.

Provisions as to requisitions by Inspector to occupiers.

66. With respect to requisitions under this Act by the Inspector to the occupier of a factory, the following provisions shall apply:—

- (a.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on the occupier as defined in section two hereof, under his usual business name or style.
- (b.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the factory.

- (c.) The requisition, when served as aforesaid, shall bind every person who by section two hereof is included in the definition of "Occupier."
- (d.) If the occupier considers the requisition to be unreasonable he may appeal to the Magistrate, by filing in the Magistrate's Courthouse nearest to the factory a notice of appeal, in the prescribed form, setting forth with reasonable particularity the grounds of the appeal.
- (e.) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within seven days after service of the requisition.
- (f.) Upon the notice of appeal being duly filed, the Magistrate shall fix a time for the hearing of the appeal, being the earliest convenient time, and the Clerk of the Court shall, by notice in the prescribed form, notify the appellant and the Inspector that the appeal will be heard by the Magistrate at the Courthouse at the time so fixed.
- (g.) On the hearing of the appeal the Magistrate may by order confirm, reverse, or modify the requisition, as he thinks fit, and the order shall be final and binding on all parties.
- (h.) When the occupier, not being the owner of the property, is required to make any alteration of the building for sanitary purposes only under this section he may recover the cost of the same from the owner thereof.

Inspector to furnish local report.

67. Each Inspector shall, as and when prescribed by regulation or by the Minister, furnish to the Minister a local report in the prescribed form as to the operation of this Act in the district in which the Inspector has been acting.

Minister to prepare annual report.

68. From the local reports so furnished the Minister shall prepare an annual report for each year ending the thirty-first day of March, and lay the same within one month after the close of such year before Parliament if then sitting, or, if not, then within one month after the commencement of the then next ensuing session.

Particulars to be given in Minister's report.

69. With respect to the Minister's annual report, the following provisions shall apply :—

- (a.) It shall be general and comprehensive in character :
- (b.) It shall not refer by name to any person or factory, or be so framed as to readily admit of the same being identified :
- (c.) It shall give general information as to the course and conditions of trade in so far as the same are disclosed or influenced by the operation of this Act, and shall show as far as possible in respect of each description of industry—

- (i.) The number of factories engaged therein ;
- (ii.) The total number of persons employed, classifying them according to age, sex, and average weekly earnings, whether by wages or piecework ;
- (iii.) The hours of labour ;
- (iv.) The percentage of work done respectively inside and outside factories ;
- (v.) Such other particulars as are prescribed or as the Minister thinks fit.

#### Regulations.

70. (1.) The Governor may from time to time make regulations for any purpose contemplated or required by this Act, and may prescribe any fine not exceeding five pounds for any breach thereof.

(2.) All such regulations shall come into force on the date of the gazetting thereof.

#### Application of fees and fines.

71. All fees and fines received and recovered under this Act shall be paid into the Public Account, and form part of the Consolidated Fund.

#### Salaries of Inspectors and expenses to be appropriated.

72. (1.) The salaries or remuneration of Inspectors, and all the other expenses of carrying out the provisions of this Act by the Government, shall be paid out of moneys from time to time appropriated for that purpose by Parliament.

#### Payment of expenses of local authorities.

(2.) All moneys payable for carrying out such of the provisions of this Act as devolve upon local authorities shall be paid and borne out of the ordinary funds of such local authorities.

#### Act not to apply to shearers or agricultural labourers.

73. This Act does not apply to shearers or shearing-sheds, or in any way affect "The Shearers' and Agricultural Labourers' Accommodation Act, 1908."

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### ENACTMENTS CONSOLIDATED.

1901, No. 59.—"The Factories Act, 1901."

1902, No. 55.—"The Factories Amendment Act, 1902."

1904, No. 27.—"The Public Officers' Appointment and Powers Act, 1904": Sections 7 and 8, so far as applicable.

1905, No. 60.—"The Factories Act Amendment Act, 1905."

1906, No. 57.—"The Factories Act Amendment Act, 1906."

1907, No. 73.—"The Factories Act Amendment Act, 1907."

## SECOND SCHEDULE.

## FEES ON REGISTRATION OF FACTORY.

Where the maximum number of persons to be engaged in the factory does not exceed three	£	s.	d.
Where such number exceeds three but does not exceed eight	0	1	0
Where such number exceeds eight but does not exceed fifteen	0	5	0
Where such number exceeds fifteen but does not exceed thirty	0	10	0
Where such number exceeds thirty	1	1	0
	2	10	0

## THIRD SCHEDULE.

Works and factories exempted under the operation of section 18 :—

1. Freezing-works.
2. Dairy factories, including creameries.
3. Fellmongeries and pelt-works.
4. Fish curing or preserving works.
5. Jam-factories (during the small-fruit season).
6. Bacon-factories.
7. Sausage-casing factories.

## THE INDUSTRIAL CONCILIATION AND ARBITRATION ACT, 1908.

1908, No. 82.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Settlement of Industrial Disputes by Conciliation and Arbitration.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

### Short Title.

1. (1.) The Short Title of this Act is "The Industrial Conciliation and Arbitration Act, 1908."

### Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

### Savings.

(a.) All districts, offices, appointments, regulations, rules, registers, records, certificates, awards, industrial agreements, orders, permits, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into

operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

- (b.) Every union or association registered and incorporated under any such enactment, and subsisting on the coming into operation of this Act, shall be deemed to be registered and incorporated under this Act.
- (c.) All references in any such award, agreement, order, or instrument to the President of the Court shall be construed as references to the Judge of the Court.
- (d.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## P R E L I M I N A R Y .

### *Interpretation.*

#### Interpretation.

2. (1.) In this Act, if not inconsistent with the context,—
  - “ Board ” means a Board of Conciliation for an industrial district constituted under this Act :
  - “ Court ” means the Court of Arbitration constituted under this Act :
  - “ Employer ” includes persons, firms, companies, and corporations employing one or more workers :
  - “ Industrial association ” means an industrial association registered under this Act :
  - “ Industrial dispute ” means any dispute arising between one or more employers or industrial unions or associations of employers and one or more industrial unions or associations of workers in relation to industrial matters :
  - “ Industrial matters ” means all matters affecting or relating to work done or to be done by workers, or the privileges, rights, and duties of employers of workers in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence : and, without limiting the general nature of the above definition, includes all matters relating to—
    - (a.) The wages, allowances, or remuneration of workers employed in any industry, or the prices paid or to be paid therein in respect of such employment ;
    - (b.) The hours of employment, sex, age, qualification, or status of workers, and the mode, terms, and conditions of employment ;

(c.) The employment of children or young persons, or of any person or persons or class of persons, in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein ;

(d.) The claim of members of an industrial union of employers to preference of service from unemployed members of an industrial union of workers ;

(e.) The claim of members of industrial unions of workers to be employed in preference to non-members ;

(f.) Any established custom or usage of any industry, either generally or in the particular district affected :

“ Industrial union ” means an industrial union registered under this Act :

“ Industry ” means any business, trade, manufacture, undertaking, calling, or employment in which workers are employed :

“ Judge ” means the Judge of the Court of Arbitration :

“ Officer,” when used with reference to any union or association, means president, vice-president, treasurer, or secretary :

“ Prescribed ” means prescribed by regulations under this Act :

“ Registrar ” means the Registrar of Industrial Unions under this Act :

“ Supreme Court office ” means the office of the Supreme Court in the industrial district wherein any matter arises to which such expression relates ; and, where there are two such offices in any such district, it means the office which is nearest to the place or locality wherein any such matter arises :

“ Trade-union ” means any trade-union registered under “ The Trade-unions Act, 1908,” whether so registered before or after the coming into operation of this Act :

“ Worker ” means any person of any age of either sex employed by any employer to do any skilled or unskilled manual or clerical work for hire or reward.

(2.) In order to remove any doubt as to the application of the foregoing definitions of the terms “ employer,” “ industry,” and “ worker,” it is hereby declared that for all the purposes of this Act an employer shall be deemed to be engaged in an industry when he employs workers who by reason of being so employed are themselves engaged in that industry, whether he employs them in the course of his trade or business or not.

### *Administration.*

Minister of Labour to administer Act.

3. The Minister of Labour shall have the general administration of this Act.

Secretary for Labour to be Registrar.

4. (1.) The Registrar shall be the person who for the time being holds the office of Secretary for Labour, or such other person as the Governor from time to time appoints to be Registrar.

Registrar may state case.

(2.) The Registrar may, in any matter arising in or out of the performance of his duties, state a case for the advice and opinion of the Court.

Deputy Registrar.

(3.) The Governor may from time to time appoint some fit person to be Deputy Registrar, who shall, under the control of the Registrar, perform such general official duties as he is called upon to perform under this Act or by the Registrar, and who in case of the illness, absence, or other temporary incapacity of the Registrar shall act in his name and on his behalf, and while so acting shall have and may exercise all the powers, duties, and functions of the Registrar.

## REGISTRATION.

### *Industrial Unions.*

What societies may be registered.

5. Subject to the provisions of this Act, any society consisting of not less than two persons in the case of employers, or seven in the case of workers, lawfully associated for the purpose of protecting or furthering the interests of employers or workers in or in connection with any specified industry or industries in New Zealand, may be registered as an industrial union under this Act on compliance with the following provisions :—

Mode of application and terms of rules.

- (a.) An application for registration shall be made to the Registrar in writing, stating the name of the proposed industrial union, and signed by two or more officers of the society.
- (b.) Such application shall be accompanied by—
  - (i.) A list of the members and officers of the society :
  - (ii.) Two copies of the rules of the society :
  - (iii.) A copy of a resolution passed by a majority of the members present at a general meeting of the society, specially called in accordance with the rules for that purpose only, and desiring registration as an industrial union of employers, or, as the case may be, of workers.
- (c.) Such rules shall specify the purposes for which the society is formed, and shall provide for—
  - (i.) The appointment of a committee of management, a chairman, secretary, and any other necessary officers, and, if thought fit, of a trustee or trustees :

(ii.) The powers, duties, and removal of the committee, and of any chairman, secretary, or other officer or trustee, and the mode of supplying vacancies :

(iii.) The manner of calling general or special meetings, the quorum thereat, the powers thereof, and the manner of voting thereat :

(iv.) The mode in which industrial agreements and any other instruments shall be made and executed on behalf of the society, and in what manner the society shall be represented in any proceedings before a Board or the Court :

(v.) The custody and use of the seal, including power to alter or renew the same :

(vi.) The control of the property, the investment of the funds, and an annual or other shorter periodical audit of the accounts :

(vii.) The inspection of the books and the names of the members by every person having an interest in the funds :

(viii.) A register of members, and the mode in which and the terms on which persons shall become or cease to be members, and so that no member shall discontinue his membership without giving at least three months' previous written notice to the secretary of intention so to do, nor until such member has paid all fees, fines, levies, or other dues payable by him under the rules, except pursuant to a clearance card duly issued in accordance with the rules :

(ix.) The purging of the rolls by striking off any members in arrears of dues for twelve months ; but this is not to free such discharged persons from arrears due :

(x.) The conduct of the business of the society at some convenient address to be specified, and to be called " the registered office of the society " :

(xi.) The amendment, repeal, or alteration of the rules, but so that the foregoing requirements of this paragraph shall always be provided for :

(xii.) Any other matter not contrary to law.

#### Registration of society.

6. (1.) On being satisfied that the society is qualified to register under this Act, and that the provisions of the last preceding section hereof have been complied with, the Registrar shall, without fee, register the society as an industrial union pursuant to the application, and shall issue a certificate of registration, which, unless proved to have been cancelled, shall be conclusive evidence of the fact of such registration and of the validity thereof.



(2.) The Registrar shall at the same time record the rules, and also the situation of the registered office.

Incorporation of society.

7. (1.) Every society registered as an industrial union shall, as from the date of registration, but solely for the purposes of this Act, become a body corporate by the registered name, having perpetual succession and a common seal, until the registration is cancelled as hereinafter provided.

(2.) There shall be inserted in the registered name of every industrial union the word "employers" or "workers," according as such union is a union of employers or workers, and also (except in the case of an incorporated company) the name of the industry in connection with which it is formed, and the locality in which the majority of its members reside or exercise their calling, as thus: "The [Christchurch Grocers'] Industrial Union of Employers"; "The [Wellington Tram-drivers'] Industrial Union of Workers."

Special provisions as to registering trade-unions.

8. With respect to trade-unions the following special provisions shall apply, anything hereinbefore contained to the contrary notwithstanding:—

- (a.) Any such trade-union may be registered under this Act by the same name (with the insertion of such additional words as aforesaid).
- (b.) For the purposes of this Act every branch of a trade-union shall be considered a distinct union, and may be separately registered as an industrial union under this Act.
- (c.) For the purposes of this Act the rules for the time being of the trade-union, with such addition or modification as may be necessary to give effect to this Act, shall, when recorded by the Registrar, be deemed to be the rules of the industrial union.

Special provisions as to registering societies of employers.

9. With respect to the registration of societies of employers the following special provisions shall apply:—

- (a.) In any case where a copartnership firm is a member of the society, each individual partner residing in New Zealand shall be deemed to be a member, and the name of each such partner (as well as that of the firm) shall be set out in the list of members accordingly, as thus: "Watson, Brown, and Company, of Wellington, boot-manufacturers; the firm consisting of four partners, of whom the following reside in New Zealand—that is to say, John Watson, of Wellington, and Charles Brown, of Christchurch": Provided that this paragraph shall not apply where the society to be registered is an incorporated company.

- (b.) Except where its articles or rules expressly forbid the same, any company incorporated under any Act may be registered as an industrial union of employers, and in such case the provisions of section five hereof shall be deemed to be sufficiently complied with if the application for registration is made under the seal of the company, and pursuant to a resolution of the board of directors, and is accompanied by—
- (i.) A copy of such resolution ;
  - (ii.) Satisfactory evidence of the registration or incorporation of the company ;
  - (iii.) Two copies of the articles of association or rules of the company ;
  - (iv.) A list containing the names of the directors, and of the manager or other principal executive officer of the company ;
  - (v.) The situation of the registered office of the company.

Registration of a foreign company represented by agent.

- (c.) Where a company registered out of New Zealand is carrying on business in New Zealand through an agent acting under a power of attorney, such company may be registered as an industrial union of employers, and in such case the provisions of section five hereof shall be deemed to be complied with if the application to register is made under the hand of the agent for the company, and is accompanied by—
- (i.) Satisfactory evidence of the registration or incorporation of the company ;
  - (ii.) Two copies of its articles of association or rules ;
  - (iii.) The situation of its registered office in New Zealand ;
  - (iv.) A copy of the power of attorney under which such agent is acting ; and
  - (v.) A statutory declaration that such power of attorney has not been altered or revoked.
- (d.) In so far as the articles or rules of any such company are repugnant to this Act they shall, on the registration of the company as an industrial union of employers, be construed as applying exclusively to the company and not to the industrial union.

Societies not to be registered under similar names.

10. In no case shall an industrial union be registered under a name identical with that by which any other industrial union has been registered under this Act, or by which any other trade-union has been registered under “ The Trade-unions Act, 1908,” or so nearly resembling any such name as to be likely to deceive the members or the public.

## Provision to prevent multiplicity of unions.

11. In order to prevent the needless multiplication of industrial unions connected with the same industry in the same locality or industrial district, the following special provisions shall apply :—

- (a.) The Registrar may refuse to register an industrial union in any case where he is of opinion that in the same locality or industrial district and connected with the same industry there exists an industrial union to which the members of such industrial union might conveniently belong :

Provided that the Registrar shall forthwith notify such registered industrial union that an application for registration has been made.

- (b.) Such industrial union, if dissatisfied with the Registrar's refusal, may in the prescribed manner appeal therefrom to the Court, whereupon the Court, after making full inquiry, shall report to the Registrar whether in its opinion his refusal should be insisted on or waived, and the Registrar shall be guided accordingly :

Provided that it shall lie on the industrial union to satisfy the Court that, owing to distance, diversity of interest, or other substantial reason, it will be more convenient for the members to register separately than to join any existing industrial union.

## Effect of registration.

12. The effect of registration shall be to render the industrial union, and all persons who are members thereof at the time of registration, or who after such registration become members thereof, subject to the jurisdiction by this Act given to a Board and the Court respectively and liable to all the provisions of this Act, and all such persons shall be bound by the rules of the industrial union during the continuance of their membership.

## Amendment of rules.

13. (1.) Copies of all amendments or alterations of the rules of an industrial union shall, after being verified by the secretary or some other officer of the industrial union, be sent to the Registrar, who shall record the same upon being satisfied that the same are not in conflict with the requirements of this Act.

## Printed copies to be supplied.

(2.) A printed copy of the rules of the industrial union shall be delivered by the secretary to any person requiring the same on payment of a sum not exceeding one shilling.

(3.) In all proceedings affecting the industrial union, *prima facie* evidence of the rules and their validity may be given by the production

of what purports to be a copy thereof, certified as a true copy under the seal of the union and the hand of the secretary or any other officer thereof.

Registered office and branch office of industrial union.

14. (1.) In addition to its registered office, an industrial union may also have a branch office in any industrial district in which any of its members reside or exercise their calling.

(2.) Upon application in that behalf by the union, under its seal and the hand of its chairman or secretary, specifying the situation of the branch office, the Registrar shall record the same, and thereupon the branch office shall be deemed to be registered.

(3.) The situation of the registered office and of each registered branch office of the industrial union may be changed from time to time by the committee of management, or in such other manner as the rules provide.

(4.) Every such change shall be forthwith notified to the Registrar by the secretary of the union, and thereupon the change shall be recorded by the Registrar.

Members may be sued for fees or dues.

15. All fees, fines, levies, or dues payable to an industrial union by any member thereof under its rules may, in so far as they are owing for any period of membership subsequent to the registration of the society under this Act, be sued for and recovered in the name of the union in any Court of competent jurisdiction by the secretary or the treasurer of the union, or by any other person who is authorised in that behalf by the committee of management or by the rules.

Power to purchase or lease land.

16. An industrial union may purchase or take on lease, in the name of the union or of trustees for the union, any house or building, and any land not exceeding five acres, and may sell, mortgage, exchange, or let the same or any part thereof; and no person shall be bound to inquire whether the union or the trustees have authority for such sale, mortgage, exchange, or letting; and the receipt of the union or the trustees shall be a discharge for the money arising therefrom.

Industrial unions to send half-yearly list of members and officers to Registrar.

17. (1.) In the month of January in every year there shall be forwarded to the Registrar by every industrial union a list of the members and officers (including trustees) of such union, as at the close of the last preceding month:

Provided that in the case of an incorporated company it shall be sufficient if the list contains the names of the directors and of the manager or other principal executive officer of the company:

Provided further that an industrial union of workers shall not return as a member any worker whose subscription is twelve months in arrear.

(2.) Each such list shall be verified by the statutory declaration of the chairman or secretary of the union.

(3.) Such statutory declaration shall be *prima facie* evidence of the truth of the matters herein set forth.

#### Fine.

(4.) Every industrial union making default in duly forwarding such list commits an offence against this Act, and is liable to a fine not exceeding two pounds for every week during which such default continues.

(5.) Every member of the committee of management of any such union who wilfully permits such default commits an offence against this Act, and is liable to a fine not exceeding five shillings for every week during which he wilfully permits such default.

(6.) Proceedings for the recovery of any such fine shall be taken in a summary way under "The Justices of the Peace Act, 1908," on the information or complaint of the Registrar, and the amount recovered shall be paid into the Public Account and form part of the Consolidated Fund :

Provided that before taking the proceedings the Registrar shall give at least fourteen days' notice to the offending parties of his intention so to do.

(7.) It shall be the duty of the Registrar to supply to Parliament, within thirty days after its meeting in each year, a return showing the number of members in each industrial union registered under the Act.

Industrial union may sue in registered name. Service of notices.

18. Every industrial union may sue or be sued for the purposes of this Act by the name by which it is registered : and service of any process, notice, or document of any kind may be effected by delivering the same to the chairman or secretary of such union, or by leaving the same at its registered office (not being a branch office), or by posting the same to such registered office in a duly registered letter addressed to the secretary of the union.

Mode of executing deeds and instruments.

19. Deeds and instruments to be executed by an industrial union for the purposes of this Act may be made and executed under the seal of the union and the hands of the chairman and secretary thereof, or in such other manner as the rules of the union prescribe.

#### *Amalgamation of Industrial Unions.*

Amalgamation of industrial unions.

20. (1.) Whenever two or more industrial unions in the same industrial district connected with the same industry desire to amalga-

mate so as to form one union and carry out such desire by registering a new industrial union, the Registrar shall place upon the certificate of registration of such new union a memorandum of the names of the unions whose registration is shown to his satisfaction to have been cancelled in consequence of such amalgamation and registration.

(2.) Where there is more than one award in force relating to that industry within the same industrial district or any part thereof the Court, on the application of any party to any such award, may by order adjust the terms of such awards, and such order shall have effect as if it were a new award.

(3.) Until such order is made such amalgamation shall not have effect.

### *Cancellation of Registration.*

#### Procedure for cancellation of registration.

21. Any industrial union may at any time apply to the Registrar in the prescribed manner for a cancellation of the registration thereof, and thereupon the following provisions shall apply :—

(a.) The Registrar, after giving six weeks' public notice of his intention to do so, may, by notice in the *Gazette*, cancel such registration :

Provided that in no case shall the registration be cancelled during the progress of any conciliation or arbitration proceedings affecting such union until the Board or Court has given its decision or made its award, nor unless the Registrar is satisfied that the cancellation is desired by a majority of the members of the union.

(b.) The effect of the cancellation shall be to dissolve the incorporation of the union, but in no case shall the cancellation or dissolution relieve the industrial union, or any member thereof, from the obligation of any industrial agreement, or award or order of the Court, nor from any penalty or liability incurred prior to such cancellation.

#### Cancellation of registration of defunct union.

22. (1.) If an industrial union makes default in forwarding to the Registrar the returns required by section seventeen hereof, and the Registrar has reasonable cause to believe that the union is defunct, he may send by post to the last known officers of the union a letter calling attention to the default, and inquiring whether the union is in existence.

(2.) If within two months after sending such letter the Registrar does not receive a reply thereto, or receives a reply from any one or more of the officers to the effect that the union has ceased to exist, he may insert in the *Gazette*, and send to the last known officers of the union, a notice declaring that the registration of the union will, unless cause to the contrary is shown, be cancelled at the expiration of six weeks from the date of such notice.

(3.) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is shown, strike the name of the union off the register, and shall publish notice thereof in the *Gazette*, and thereupon the registration of the union shall be cancelled.

### *Industrial Associations.*

Councils representing unions may be registered.

23. (1.) Any council or other body, however designated, representing not less than two industrial unions of the one industry of either employers or workers may be registered as an industrial association of employers or workers under this Act.

Application of prior provisions.

(2.) All the provisions of this Act relating to industrial unions, their officers and members, shall, *mutatis mutandis*, extend and apply to an industrial association, its officers and members, and these provisions shall be read and construed accordingly in so far as the same are applicable :

Provided that an industrial association shall not be entitled to nominate or vote for the election of members of a Board, or to recommend the appointment of a member of the Court.

### INDUSTRIAL DISPUTES IN RELATED TRADES.

Industrial disputes in related trades.

24. (1.) An industrial dispute may relate either to the industry in which the party by whom the dispute is referred for settlement to a Board or the Court, as hereinafter provided, is engaged or concerned, or to any industry related thereto.

(2.) An industry shall be deemed to be related to another where both of them are branches of the same trade, or are so connected that industrial matters relating to the one may affect the other: thus, bricklaying, masonry, carpentering, and painting are related industries, being all branches of the building trade, or being so connected as that the conditions of employment or other industrial matters relating to one of them may affect the others.

(3.) The Governor may from time to time, by notice in the *Gazette*, declare any specified industries to be related to one another, and such industries shall be deemed to be related accordingly.

(4.) The Court shall also in any industrial dispute have jurisdiction to declare industries to be related to one another.

### INDUSTRIAL AGREEMENTS.

Parties to industrial agreements defined.

25. (1.) The parties to industrial agreements under this Act shall in every case be trade-unions or industrial unions or industrial associa-

tions or employers; and any such agreement may provide for any matter or thing affecting any industrial matter, or in relation thereto, or for the prevention or settlement of an industrial dispute.

Term and form of agreement.

(2.) Every industrial agreement shall be for a term to be specified therein, not exceeding three years from the date of the making thereof, as specified therein, and shall commence as follows: "This industrial agreement, made in pursuance of 'The Industrial Conciliation and Arbitration Act, 1908,' this            day of           , between           "; and then the matters agreed upon shall be set out.

Date of agreement.

(3.) The date of the making of the industrial agreement shall be the date on which it is executed by the party who first executes it; and such date, and the names of all the original parties thereto, shall be truly stated therein.

Industrial agreement to continue in force till superseded.

(4.) Notwithstanding the expiry of the term of the industrial agreement, it shall continue in force until superseded by another industrial agreement or by an award of the Court, except where, pursuant to the provisions of section twenty-one or twenty-two hereof, the registration of an industrial union of workers bound by such agreement has been cancelled.

Duplicate to be filed.

26. A duplicate original of every industrial agreement shall, within thirty days after the making thereof, be filed in the office of the Clerk of the industrial district where the agreement is made.

Parties to agreement may be added.

27. At any time whilst the industrial agreement is in force any industrial union or industrial association or employer may become party thereto by filing in the office wherein such agreement is filed a notice in the prescribed form, signifying concurrence with such agreement.

On whom agreement binding.

28. Every industrial agreement duly made, executed, and filed shall be binding on the parties thereto, and also on every member of any industrial union or industrial association which is party thereto.

Agreements may be varied, renewed, or cancelled.

29. Every industrial agreement, whether made under this Act or under any former Act relating to industrial conciliation and arbitration, may be varied, renewed, or cancelled by any subsequent industrial agreement made by and between all the parties thereto, but so that no party shall be deprived of the benefit thereof by any subsequent industrial agreement to which he is not a party.



## Enforcement of agreements.

30. Industrial agreements shall be enforceable in manner provided by section one hundred and one hereof, and not otherwise.

## CONCILIATION AND ARBITRATION.

*Districts and Clerks.*

## Constitution of industrial districts.

31. (1.) The Governor may from time to time, by notice in the *Gazette*, constitute and divide New Zealand or any portion thereof into such industrial districts, with such names and boundaries, as he thinks fit.

(2.) All industrial districts constituted under any former Act relating to industrial conciliation and arbitration and existing on the coming into operation of this Act shall be deemed to be constituted under this Act.

## Alteration of boundaries.

32. If any industrial district is constituted by reference to the limits or boundaries of any other portion of New Zealand defined or created under any Act, then, in case of the alteration of such limits or boundaries, such alteration shall take effect in respect of the district constituted under this Act without any further proceeding, unless the Governor otherwise determines.



## Clerk of Awards for each district.

33. (1.) In and for every industrial district the Governor shall appoint a Clerk of Awards (elsewhere in this Act referred to as "the Clerk"), who shall be paid such salary or other remuneration as the Governor thinks fit, and shall be subject to the control and direction of the Registrar.

(2.) Every Clerk appointed under any former Act relating to industrial conciliation and arbitration and in office on the coming into operation of this Act shall be deemed to be appointed under this Act.

## May hold office in conjunction with other office.

34. The office of Clerk may be held either separately or in conjunction with any other office in the public service, and in the latter case the Clerk may, if the Governor thinks fit, be appointed not by name but by reference to such other office, whereupon the person who for the time being holds such office or performs its duties shall by virtue thereof be the Clerk.

## Duties of Clerk.

35. It shall be the duty of the Clerk—

- (a.) To receive, register, and deal with all applications within his district lodged for reference of any industrial dispute to the Board or to the Court ;

- (b.) To convene the Board for the purpose of dealing with any such dispute ;
- (c.) To keep a register in which shall be entered the particulars of all references and settlements of industrial disputes made to and by the Board, and of all references, awards, and orders made to and by the Court ;
- (d.) To forward from time to time to the Registrar copies of or abstracts from the register ;
- (e.) To issue all summonses to witnesses to give evidence before the Board or Court, and to issue all notices and perform all such other acts in connection with the sittings of the Board or Court as are prescribed, or as the Court, the Board, or the Registrar directs ; and
- (f.) Generally to do all such things and take all such proceedings as are prescribed by this Act or the regulations thereunder, or as the Court, the Board, or the Registrar directs.

### *Boards of Conciliation.*

District Boards to be constituted.

36. In and for every industrial district there shall be established a Board of Conciliation, which shall have jurisdiction for the settlement of any industrial dispute which arises in such district and is referred to the Board under the provisions in that behalf hereinafter contained.

Number of members of Board, and election.

37. The Board of each industrial district shall consist of such unequal number of persons as the Governor determines, being not more than five, of whom—

- (a.) One (being the Chairman) shall be elected by the other members in manner hereinafter provided ; and
- (b.) The other members shall, in manner hereinafter provided, be elected by the respective industrial unions of employers and of workers in the industrial district, such unions voting separately and electing an equal number of such members :

Provided that an industrial union shall not be entitled to vote unless its registered office has been recorded as aforesaid for at least three months next preceding the date fixed for the election.

Term of office.

38. (1.) The ordinary term of office of the members of the Board shall be three years from the date of the election of the Board, or until their successors are elected as hereinafter provided, but they shall be eligible for re-election.

Existing Boards continued in office.

(2.) Every Board established under any former Act relating to industrial conciliation and arbitration and existing on the coming into

operation of this Act shall be deemed to be established under this Act, and the members thereof then in office shall so continue until the expiry of their ordinary term of office under such former Act or until their successors are elected under this Act, but they shall be eligible for re-election.

Provision for ordinary elections.

39. With respect to the ordinary election of the members of the Board (other than the Chairman) the following provisions shall apply :—

- (a.) The Clerk shall act as Returning Officer, and shall do all things necessary for the proper conduct of the election.
- (b.) The first ordinary election shall be held within not less than twenty nor more than thirty days after the constitution of the district in the case of districts hereafter constituted, and before the expiry of the current ordinary term of office in the case of existing Boards.
- (c.) Each subsequent ordinary election shall in every case be held within not less than twenty nor more than thirty days before the expiry of the current ordinary term of office.
- (d.) The Governor may from time to time extend the period within which any election shall be held for such time as he thinks fit, anything hereinbefore contained to the contrary notwithstanding.
- (e.) The Returning Officer shall give fourteen days' notice, in one or more newspapers circulating in the district, of the day and place of election.
- (f.) For the purposes of each election the Registrar shall compile and supply to the Returning Officer a roll setting forth the name of every industrial union entitled to vote, and every such union, but no other, shall be entitled to vote accordingly.
- (g.) The roll shall be supplied as aforesaid not less than fourteen days before the day fixed for the election, and shall be open for free public inspection at the office of the Clerk during office hours, from the day on which it is received by the Clerk until the day of the election.
- (h.) Persons shall be nominated for election in such manner as the rules of the nominating industrial union prescribe, or, if there is no such rule, nominations shall be made in writing under the seal of the union and the hand of its chairman or secretary.
- (i.) An industrial union not entitled to vote shall not be entitled to nominate.
- (j.) Each nomination shall be lodged with the Returning Officer not later than five o'clock in the afternoon of the fourth day before the day of election, and shall be accompanied by the written consent of the person nominated.

- (k.) Forms of nomination shall be provided by the Returning Officer on application to him for that purpose.
- (l.) The Returning Officer shall give notice of the names of all persons validly nominated, by affixing a list thereof on the outside of the door of his office during the three days next preceding the day of election.
- (m.) If it appears that the number of persons validly nominated does not exceed the number to be elected, the Returning Officer shall at once declare such persons elected.
- (n.) If the number of persons validly nominated exceeds the number to be elected, then votes shall be taken as hereinafter provided.
- (o.) The vote of each industrial union entitled to vote shall be signified by voting-paper under the seal of the union and the hands of the chairman and secretary.
- (p.) The voting-paper shall be lodged with or transmitted by post or otherwise to the Returning Officer at his office, so as to reach his office not later than five o'clock in the afternoon of the day of the election: and the Returning Officer shall record the same in such manner as he thinks fit.
- (q.) Every voting-paper with respect to which the foregoing requirements of this section are not duly complied with shall be deemed to be informal.
- (r.) Each industrial union shall have as many votes as there are persons to be elected by its division.
- (s.) Such votes may be cumulative, and the persons, not exceeding the number to be elected, having the highest aggregate number of valid votes in each division shall be deemed elected.
- (t.) In any case where two or more candidates in the same division have an equal number of valid votes, the Returning Officer, in order to complete the election, shall give a casting-vote.
- (u.) As soon as possible after the votes of each division of industrial unions have been recorded, the Returning Officer shall reject all informal votes, and ascertain what persons have been elected as before provided, and shall state the result in writing, and forthwith affix a notice thereof on the door of his office.
- (v.) If any question or dispute arises touching the right of any industrial union to vote, or the validity of any nomination or vote, or the mode of election or the result thereof, or any matter incidentally arising in or in respect of such election, the same may in the prescribed manner be referred to the Returning Officer at any time before the gazetting of the notice of the election of the members of the Board as hereinafter provided, and the decision of the Returning Officer shall be final.

- (w.) Except as aforesaid, no such question or dispute shall be raised or entertained.
- (x.) In case any election is not completed on the day appointed, the Returning Officer may adjourn the election, or the completion thereof, to the next or any subsequent day, and may then proceed with the election.
- (y.) The whole of the voting-papers used at the election shall be securely kept by the Returning Officer during the election, and thereafter shall be put in a packet and kept until the gazetting of the notice last aforesaid, when he shall cause the whole of them to be effectually destroyed.
- (z.) Neither the Returning Officer nor any person employed by him shall at any time (except in discharge of his duty or in obedience to the process of a Court of law) disclose for whom any vote has been tendered, or retain possession of or exhibit any voting-paper used at the election, or give to any person any information on any of the matters herein mentioned.
- (aa.) If any person commits any breach of the last preceding paragraph he is liable to a fine not exceeding twenty pounds, to be recovered and applied as specified in subsection six of section seventeen hereof.

#### Meeting for election of Chairman.

40. (1.) As soon as practicable after the election of the members of the Board, other than the Chairman, the Clerk shall appoint a time and place for the elected members to meet for the purpose of electing a Chairman, and shall give to each such member at least three days' written notice of the time and place so appointed.

(2.) At such meeting the members shall, by a majority of the votes of the members present, elect some impartial person who is willing to act, not being one of their number, to be Chairman of the Board.

#### Notice of election of Board to be gazetted.

41. (1.) As soon as practicable after the election of the Chairman the Clerk shall transmit to the Registrar a list of the names of the respective persons elected as members and as Chairman of the Board, and the Registrar shall cause notice thereof to be gazetted.

(2.) Such notice shall be final and conclusive for all purposes, and the date of gazetting of such notice shall be deemed to be the date of the election of the Board.

#### Resignation of member.

42. Any member of the Board may resign, by letter to the Registrar, and the Registrar shall thereupon report the matter to the Clerk.

## Casual vacancies.

43. If the Chairman or any member of the Board—

(a.) Dies ; or

(b.) Resigns ; or

(c.) Becomes disqualified or incapable under section one hundred and five hereof ; or

(d.) Is proved to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award ; or

(e.) Is absent during four consecutive sittings of the Board,—

his office shall thereby become vacant, and the vacancy thereby caused shall be deemed to be a casual vacancy.

## How casual vacancy to be filled.

44. (1.) Every casual vacancy shall be filled by the same electing authority, and, as far as practicable, in the same manner and subject to the same provisions, as in the case of the vacating member.

(2.) Upon any casual vacancy being reported to the Clerk he shall take all such proceedings as may be necessary in order that the vacancy may be duly supplied by a fresh election :

Provided that the person elected to supply the vacancy shall hold office only for the residue of the term of the vacating member.

## No member of a Board to be nominated for another Board.

45. If any person being a member of one Board allows himself to be nominated for election as a member of another Board his nomination shall be void : and if he is so elected his election shall be void.

## Governor may appoint on failure to elect Chairman or member.

46. In any case where the Registrar is satisfied that for any reason the proper electing authority has failed or neglected to duly elect a Chairman or other member of the Board, or that his election is void, the Governor may by notice in the *Gazette* appoint a fit person to be such Chairman or other member, and for the purposes of this Act every Chairman or other member so appointed shall be deemed to be elected, and shall hold office for the unexpired residue of the ordinary term of office.

## Quorum of Board.

47. The presence of the Chairman and of not less than one-half in number of the other members of the Board, including one of each side, shall be necessary to constitute a quorum at every meeting of the Board subsequent to the election of the Chairman :

## Absence of Chairman.

Provided that in the case of the illness or absence of the Chairman the other members may elect one of their own number to be Chairman during such illness or absence.

## Mode of voting.

48. In all matters coming before the Board the decision of the Board shall be determined by a majority of the votes of the members present, exclusive of the Chairman, except in the case of an equality of such votes, in which case the Chairman shall have a casting-vote.

## Acts of Board not to be questioned for informality.

49. The Board may act notwithstanding any vacancy in its body, and in no case shall any act of the Board be questioned on the ground of any informality in the election of a member, or on the ground that the seat of any member is vacant, or that any supposed member is incapable of being a member.

Term of office of Board may be extended if engaged in hearing dispute.

50. In any case where the ordinary term of office expires or is likely to expire whilst the Board is engaged in the investigation of any industrial dispute, the Governor may, by notice in the *Gazette*, extend such term for any time not exceeding one month, in order to enable the Board to dispose of such dispute, but for no other purpose :

Provided that all proceedings for the election of the Board's successors shall be taken in like manner in all respects as if such term were not extended, and also that any member of the Board whose term is extended shall be eligible for nomination and election to the new Board.

*Special Boards of Conciliators.*

Special Boards may be created in certain cases.

51. Notwithstanding anything hereinbefore contained, it is hereby declared that in any part of New Zealand, whether included in a district or not, and whether a Board of Conciliation has been duly constituted or not, a special Board of Conciliators shall, on the application of either party to the dispute, and in the prescribed manner, be constituted from time to time to meet any case of industrial dispute.

Preceding provisions applied subject to certain modifications.

52. All the provisions of this Act relating to a Board of Conciliation, its constitution, election, jurisdiction, and powers, shall, *mutatis mutandis*, apply to a special Board of Conciliators, subject nevertheless to such modifications as are prescribed, and also to the modifications following, that is to say,—

- (a.) The Returning Officer shall be appointed by the Governor.
- (b.) The members of the special Board, who shall be experts in the particular trade under dispute (other than the Chairman), shall, in the prescribed manner, be elected in equal numbers by the employers and industrial unions of employers directly interested in the dispute, and by the industrial unions of workers so interested.

- (c.) All or any of the members of the special Board may be members of an existing Board of Conciliation.
- (d.) The members of the special Board shall in each case vacate their office on the settlement of the dispute.

*Functions and Procedure of Conciliation Boards.*

Procedure for reference of industrial dispute to Board.

53. Any industrial dispute may be referred for settlement to a Board by application in that behalf made by any party thereto, and with respect to such application and reference the following provisions shall apply :—

- (a.) The application shall be in the prescribed form, and shall be filed in the office of the Clerk for the industrial district wherein the dispute arose.
- (b.) If the application is made pursuant to an industrial agreement, it shall specify such agreement by reference to its date and parties, and the date and place of the filing thereof.
- (c.) The parties to such dispute shall in every case be trade-unions, industrial unions, or industrial associations, or employers :

But the mention of the various kinds of parties shall not be deemed to interfere with any arrangement thereof that may be necessary to insure the industrial dispute being brought in a complete shape before the Board : and a party may be withdrawn, or removed, or joined at any time before the final report or recommendation of the Board is made, and the Board may make any recommendation or give any direction for any such purpose accordingly.

- (d.) As soon as practicable after the filing of the application the Clerk shall lay the same before the Board at a meeting thereof to be convened in the prescribed manner.
- (e.) An employer being a party to the reference may appear in person, or by his agent duly appointed in writing for that purpose, or by barrister or solicitor where allowed as herein-after provided.
- (f.) A trade-union, industrial union, or association being a party to the reference may appear by its chairman or secretary, or by any number of persons (not exceeding three) appointed in writing by the chairman, or in such other manner as the rules prescribe, or by barrister or solicitor where allowed as hereinafter provided.
- (g.) Except where hereinafter specially provided, every party appearing by a representative shall be bound by the acts of such representative.



- (h.) No barrister or solicitor, whether acting under a power of attorney or otherwise, shall be allowed to appear or be heard before a Board, or any committee thereof, unless all the parties to the reference expressly consent thereto, or unless he is a *bona fide* employer or worker in the industry to which the dispute relates.

Powers and duties of Board for hearing dispute.

54. In every case where an industrial dispute is duly referred to a Board for settlement the following provisions shall apply :—

- (a.) The Board shall, in such manner as it thinks fit, carefully and expeditiously inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof.
- (b.) For the purposes of such inquiry the Board shall have all the powers of summoning witnesses, administering oaths, compelling hearing and receiving evidence, and preserving order, which are by this Act conferred on the Court, save and except the production of books.
- (c.) In the course of such inquiry the Board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period the Board thinks reasonable to allow the parties to agree upon some terms of settlement.
- (d.) The Board may also, upon such terms as it thinks fit, refer the dispute to a committee of its members, consisting of an equal number of the representatives of employers and workers, in order that such committee may facilitate and promote an amicable settlement of the dispute.
- (e.) If a settlement of the dispute is arrived at by the parties it shall be set forth in an industrial agreement, which shall be duly executed by all the parties or their attorneys (but not by their representatives), and a duplicate original whereof shall be filed in the office of the Clerk within such time as is named by the Board in that behalf.
- (f.) If such industrial agreement is duly executed and filed as aforesaid, the Board shall report to the Clerk of Awards that the dispute has been settled by industrial agreement.
- (g.) If such industrial agreement is not duly executed and filed as aforesaid, the Board shall make such recommendation for the settlement of the dispute, according to the merits and substantial justice of the case, as the Board thinks fit.
- (h.) The Board's recommendation shall deal with each item of the dispute, and shall state in plain terms, avoiding as far as

possible all technicalities, what in the Board's opinion should or should not be done by the respective parties concerned.

- (i.) The Board's recommendation shall also state the period during which the proposed settlement should continue in force, being in no case less than six months nor more than three years, and also the date from which it should commence, being not sooner than one month nor later than three months after the date of the recommendation.
- (j.) The Board's report or recommendation shall be in writing under the hand of the Chairman, and shall be delivered by him to the Clerk within two months after the day on which the application for the reference was filed, or within such extended period, not exceeding one additional month, as the Board thinks fit.
- (k.) Before entering upon the exercise of the functions of their office the members of the Board, including the Chairman, shall make oath or affirmation before a Judge of the Supreme Court that they will faithfully and impartially perform the duties of their office, and also that except in the discharge of their duties they will not disclose to any person any evidence or other matter brought before the Board :

Provided that in the absence of a Judge of the Supreme Court such oath or affirmation may be taken before a Magistrate or such other person as the Governor from time to time authorises in that behalf.

Report or recommendation of Board to be filed.

55. Upon receipt of the Board's report or recommendation the Clerk shall (without fee) file the same, and allow all the parties to have free access thereto for the purpose of considering the same and taking copies thereof, and shall, upon application, supply certified copies for a prescribed fee.

Procedure if parties accept Board's recommendation.

56. If all or any of the parties to the reference are willing to accept the Board's recommendation, either as a whole or with modifications, they may, at any time before the dispute is referred to the Court under the provisions in that behalf hereinafter contained, either execute and file an industrial agreement in settlement of the dispute or file in the office of the Clerk a memorandum of settlement.

Memorandum of settlement.

57. With respect to such memorandum of settlement the following provisions shall apply :—

- (a.) It shall be in the prescribed form, and shall be executed by all or any of the parties or their attorneys (but not by their representatives).

- (b.) It shall state whether the Board's recommendation is accepted as a whole or with modifications, and in the latter case the modifications shall be clearly and specifically set forth therein.
- (c.) Upon the memorandum of settlement being duly executed and filed the Board's recommendation shall, with the modifications (if any) set forth in such memorandum, operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

Memorandum of consent to accept Board's recommendation.

58. At any time before the Board's recommendation is filed all or any of the parties to the reference may by memorandum of consent in the prescribed form, executed by themselves or their attorneys (but not by their representatives), and filed in the office of the Clerk, agree to accept the recommendation of the Board, and in such case the Board's recommendation, when filed, shall operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

Reference to Court if dispute not settled by Board.

59. With respect to every industrial dispute which, having been duly referred to the Board, is not settled under the provisions for settlement hereinbefore contained, the following special provisions shall apply :—

- (a.) At any time within one month after the filing of the Board's recommendation any of the parties may, by application in the prescribed form filed in the office of the Clerk, refer such dispute to the Court for settlement, and thereupon such dispute shall be deemed to be before the Court.
- (b.) If at the expiration of such month no such application has been duly filed, then on and from the date of such expiration the Board's recommendation shall operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

Power to refer dispute direct to Court.

60. Notwithstanding anything to the contrary in this Act, either party to an industrial dispute which has been referred to a Board of Conciliation may, previous to the hearing of such dispute by the Board, file with the Clerk an application in writing requiring the dispute to be referred to the Court of Arbitration, and that Court shall have jurisdiction to settle and determine such dispute in the same manner as if such dispute had been referred to the Court under the provisions of section fifty-nine hereof.

Board may state case.

61. The Board may, in any matter coming before it, state a case for the advice and opinion of the Court.

*The Court of Arbitration.*

## Court of Arbitration.

62. There shall be one Court of Arbitration (in this Act called "the Court") for the whole of New Zealand for the settlement of industrial disputes pursuant to this Act.

## Seal.

63. The Court shall have a seal, which shall be judicially noticed in all Courts of judicature and for all purposes.

## Constitution of Court.

64. The Court shall consist of three members, who shall be appointed by the Governor. Of the three members of the Court one shall be the Judge of the Court, and shall be so appointed, and the other two (hereinafter called "nominated members") shall be appointed as hereinafter provided.

## Appointment of Judge of Court.

65. (1.) No person shall be eligible for appointment as Judge of the Court unless he is eligible to be a Judge of the Supreme Court.

(2.) The Judge so appointed shall, as to tenure of office, salary, emoluments, and privileges (including superannuation allowance), have the same rights and be subject to the same provisions as a Judge of the Supreme Court.

(3.) The Governor may from time to time appoint the Judge of the Court to be a temporary Judge of the Supreme Court if and whenever, upon the certificate of the Chief Justice, it appears that judicial assistance is required.

(4.) In case of the illness or unavoidable absence of the Judge of the Court at any time the Governor shall appoint some Judge of the Supreme Court to act as Judge of the Court during such illness or absence.

(5.) This Act shall be deemed to be a permanent appropriation of the salary of the Judge of the Court.

## Appointment of nominated members.

66. (1.) Of the two nominated members of the Court one shall be appointed on the recommendation of the industrial unions of employers, and one on the recommendation of the industrial unions of workers.

## Procedure for appointment of nominated members.

(2.) For the purposes of the appointment of the nominated members of the Court (other than the Judge) the following provisions shall apply :—

(a.) Each industrial union may, within one month after being requested so to do by the Governor, recommend to the Governor the names of two persons, one to be the nominated

member and one to be the acting nominated member of the Court, and from the names so recommended the Governor shall select four persons as follows :—

One from the persons recommended by the unions of employers and one from the persons recommended by the unions of workers, and shall appoint them to be nominated members of the Court ; and

One from the persons recommended by the unions of employers and one from the persons recommended by the unions of workers, and appoint them to be acting nominated members of the Court.

- (b.) The recommendation shall in each case be made in the name and under the seal of the union, by the committee of management or other governing authority thereof, however designated.
- (c.) If either of the divisions of unions fails or neglects to duly make any recommendation within the aforesaid period, the Governor shall, as soon thereafter as may be convenient, appoint a fit person to be a nominated member or an acting nominated member of the Court, as the case may be ; and such person shall be deemed to be appointed on the recommendation of the said division of unions.
- (d.) As soon as practicable after the nominated members and acting nominated members of the Court have been appointed their appointment shall be notified in the *Gazette*, and such notification shall be final and conclusive for all purposes.

#### Term of office.

(3.) Every nominated member or acting nominated member of the Court shall hold office for three years from the date of the gazetting of his appointment or until the appointment of his successor, and shall be eligible for reappointment.

#### Existing Court and members continued.

67. With respect to the Court constituted under the enactments mentioned in the Schedule hereto, and subsisting on the coming into operation of this Act, and with respect also to the members thereof then in office, the following provisions shall apply :—

- (a.) It shall be deemed to be the Court under this Act :
- (b.) The Judge thereof shall be deemed to be the Judge of the Court under this Act :
- (c.) The other members and the acting-members thereof shall be deemed to be the nominated members and acting nominated members thereof under this Act, and shall so continue until the expiry of the term of their appointment or until the appointment of their successors under this Act, and shall be eligible for reappointment under this Act.

## When acting-member to act.

68. (1.) If at any time either of the nominated members of the Court is unable by reason of illness or other cause to attend any sitting of the Court on the day fixed for the same, and it is likely that he will be unable to attend any sitting of the Court within seven days after the day so fixed, he may notify the Clerk thereof.

(2.) If at any time the Clerk (whether or not he has been so notified) is satisfied that any such member is by reason of illness or other cause unable to attend any sitting of the Court on the day fixed for the same, and it is likely that he will be unable to attend for seven days after the day so fixed, he shall notify the fact to the Judge, who shall thereupon summon the acting nominated member appointed as aforesaid on the recommendation of the industrial unions of employers or of workers, as the case may be, to attend the sittings of the Court, and to act as a nominated member of the Court during the absence of the nominated member who is unable to attend, and while so acting he shall have and may exercise all the powers, functions, and privileges of the nominated member for whom he is acting.

(3.) On receipt by the Clerk of a notice in writing, signed by the nominated member of the Court, that he is able to resume the duties of his office, the acting nominated member shall cease to act as aforesaid :

Provided that if he is then employed upon the hearing of a case he shall complete such hearing before so ceasing to act.

(4.) The absence of the nominated member of the Court while the acting nominated member is so acting shall not be deemed to have created a casual vacancy under section seventy-one hereof.

## Acting-member to act when permanent member a party to dispute.

69. (1.) In any case where the permanent nominated member is himself a party to the dispute or proceedings, and is consequently unable to act as member, the acting nominated member may attend and act ; and the provisions of the last preceding section shall, *mutatis mutandis*, apply.

(2.) In any such case as last aforesaid there is no duly appointed acting nominated member who can attend and act, the Governor may, on the recommendation of the Judge, appoint a fit person to attend and act for the purpose of hearing and determining the dispute or proceedings to which the permanent nominated member is a party, and the person so appointed shall be deemed to be an acting nominated member for the purpose aforesaid.

## Resignations.

70. If any nominated member or acting nominated member of the Court resigns by letter to the Governor, his office shall thereby become vacant, and the vacancy shall be deemed to be a casual vacancy.

## Power of removal by Governor.

71. The Governor shall remove any nominated member or acting nominated member of the Court from office who becomes disqualified or incapable under section one hundred and five hereof, or is proved to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or is absent from four consecutive sittings of the Court; and every vacancy thereby caused shall be deemed to be a casual vacancy.

## Mode of filling casual vacancy.

72. Every casual vacancy in the nominated membership or acting nominated membership of the Court shall be supplied in the same manner as in the case of the original appointment; but every person appointed to fill a casual vacancy shall hold office only for the residue of the term of his predecessor.

## Oath of office and secrecy.

73. Before entering on the exercise of the functions of their office the nominated members of the Court shall make oath or affirmation before the Judge that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any evidence or other matter brought before the Court.

## Remuneration of members of the Court.

74. (1.) There shall be paid to each nominated member of the Court the annual sum of five hundred pounds, in addition to such travelling-expenses as are prescribed by regulations.

## Act a permanent appropriation of salaries.

(2.) This Act shall be deemed to be a permanent appropriation of the salaries of the nominated members of the Court.

## Registrar to the Court.

75. (1.) The Governor may from time to time appoint some fit person to be Registrar to the Court, who shall be paid such salary as the Governor thinks fit, and shall be subject to the control and direction of the Court.

## Officers may be appointed.

(2.) The Governor may also from time to time appoint such clerks and other officers of the Court as he thinks necessary, and they shall hold office during pleasure, and receive such salary or other remuneration as the Governor thinks fit.

*Jurisdiction and Procedure of the Court.*

## Jurisdiction.

76. The Court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it under the provisions of this Act.

Clerk to notify Judge when dispute referred.

77. Forthwith after any dispute has been duly referred to the Court for settlement under the provisions in that behalf hereinbefore contained, the Clerk shall notify the fact to the Judge.

Parties to proceedings before Court.

78. Subject to provisions hereinafter contained as to the joining or striking-out of parties, the parties to the proceedings before the Court shall be the same as in the proceedings before the Board, and the provisions hereinbefore contained as to the appearance of parties before a Board shall apply to proceedings before the Court.

Sittings of Court.

79. With respect to the sittings of the Court the following provisions shall apply :—

- (a.) The sittings of the Court shall be held at such time and place as are from time to time fixed by the Judge.
- (b.) The sittings may be fixed either for a particular case or generally for all cases then before the Court and ripe for hearing, and it shall be the duty of the Clerk to give to each member of the Court, and also to all parties concerned, at least three clear days' previous notice of the time and place of each sitting.
- (c.) The Court may be adjourned from time to time and from place to place in manner following, that is to say :—
  - (i.) By the Court or the Judge at any sitting thereof, or if the Judge is absent from such sitting, then by any other member present, or if no member is present, then by the Clerk ; and
  - (ii.) By the Judge at any time before the time fixed for the sitting, and in such case the Clerk shall notify the members of the Court and all parties concerned.

Appearance of parties

80. Any party to the proceedings before the Court may appear personally or by agent, or, with the consent of all the parties, by barrister or solicitor, and may produce before the Court such witnesses, books, and documents as such party thinks proper.

Powers of Court.

81. The Court shall in all matters before it have full and exclusive jurisdiction to determine the same in such manner in all respects as in equity and good conscience it thinks fit.

Provisions as to all applications and as to disputes pending.

82. The following provisions shall have effect both with reference to applications and disputes pending on the coming into operation of this Act and to applications hereafter filed :—



- (a.) The Court may at or before the hearing of any dispute take steps to ascertain whether all persons who ought to be bound by its award have been cited to attend the proceedings.
- (b.) Whenever the Court is of opinion, whether from the suggestion of parties or otherwise, that all such persons have not been cited it may direct that further parties be cited, and may postpone the hearing of the dispute until such time as it may conveniently be heard; and in such case the time for making the award under section eighty-eight hereof shall not be deemed to commence to run until such direction has been complied with. °
- (c.) Whenever the Court is satisfied, by means of a statutory declaration of the secretary or president of any industrial union or industrial association, or of any employer, or by any other means that the Court thinks sufficient, that reasonable steps have been taken by the applicant to cite all persons known to the applicant to be engaged in the industry to which the proposed award is intended to apply, but is of opinion that it is probable that further parties ought to be bound who, from their being numerous, or widely scattered, or otherwise, could not reasonably have been cited personally, the Court, or, when it is not sitting, the Judge, may by order fix a day for the hearing, and give public notice thereof by advertisement or otherwise in such places and for such time or otherwise in such manner as it by such order determines.
- (d.) Such notice shall state the time and place of the intended sitting and the industry affected by the proposed award.
- (e.) The aforesaid order of the Court or Judge shall be conclusive evidence that it was made upon proper grounds, and a recital or statement in an award that such an order has been made shall be conclusive evidence of the fact.
- (f.) The cost of such notice shall be ascertained by the Clerk, and paid to him by the applicant before the same is incurred.
- (g.) Proof of the giving of such notice shall be sufficient proof of notice of the proceedings to every person, whether employer or worker, connected with or engaged in the industry to which the proceedings relate in the industrial district or the part thereof to which the award is intended to apply; and every such person, whether an original party to the proceedings or not, shall be entitled to be heard, and shall be bound by the award when made.
- (h.) The fixing of a date for the hearing shall not deprive the Court of its power to adjourn the hearing; but any person who desires to have any adjournment notified to him may send

intimation to that effect to the Clerk, who shall enter his name and address in a book to be kept for that purpose, and thereafter keep him informed of any adjournment or postponement of the hearing.

- (i.) Any person may be made a party to an application by the applicant without an order of the Court at any time not being less than seven days before the hearing of a dispute, and the Court shall determine whether such person should properly be made a party to the award.

#### Evidence.

83. With respect to evidence in proceedings before the Court the following provisions shall apply :—

- (a.) Formal matters which have been proved or admitted before the Board need not be again proved or admitted before the Court, but shall be deemed to be proved.
- (b.) On the application of any of the parties, and on payment of the prescribed fee, the Clerk shall issue a summons to any person to appear and give evidence before the Court.
- (c.) The summons shall be in the prescribed form, and may require such person to produce before the Court any books, papers, or other documents in his possession or under his control in any way relating to the proceedings.
- (d.) All books, papers, and other documents produced before the Court, whether produced voluntarily or pursuant to summons, may be inspected by the Court, and also by such of the parties as the Court allows; but the information obtained therefrom shall not be made public, and such parts of the documents as, in the opinion of the Court, do not relate to the matter at issue may be sealed up.
- (e.) Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits under “ The Magistrates’ Courts Act, 1908.”
- (f.) If any person who has been duly served with such summons, and to whom at the same time payment or tender has been made of his reasonable travelling-expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper, or document as required by his summons he commits an offence, and is liable to a fine not exceeding twenty pounds, or to imprisonment for any term not exceeding one month, unless he shows that there was good and sufficient cause for such failure.
- (g.) For the purpose of obtaining the evidence of witnesses at a distance the Court, or, whilst the Court is not sitting, the Judge, shall have all the powers and functions of a Magistrate under “ The Magistrates’ Courts Act, 1908,” and the

provisions of that Act relative to the taking of evidence at a distance shall, *mutatis mutandis*, apply in like manner as if the Court were a Magistrate's Court.

- (h.) The Court may take evidence on oath, and for that purpose any member, the Clerk, or any other person acting under the express or implied direction of the Court, may administer an oath.
- (i.) On any indictment for perjury it shall be sufficient to prove that the oath was administered as aforesaid.
- (j.) The Court may accept, admit, and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.
- (k.) Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.
- (l.) The Court in its discretion may order that all or any part of its proceedings may be taken down in shorthand.
- (m.) On the hearing before the Court of any industrial dispute the Court may, if it thinks fit, dispense with any evidence on any matter on which all parties to the dispute have agreed in writing either as an industrial agreement or by memorandum before the Board.

#### Quorum.

84. (1.) The presence of the Judge and at least one other member shall be necessary to constitute a sitting of the Court.

#### Decision to be of majority of Court.

(2.) The decision of a majority of the members present at the sitting of the Court, or if the members present are equally divided in opinion, then the decision of the Judge, shall be the decision of the Court.

#### Judge to deliver decision.

(3.) The decision of the Court shall in every case be signed by the Judge, and may be delivered by him, or by any other member of the Court, or by the Clerk.

#### Matters may be referred to a Board for investigation.

85. The Court may refer any matters before it to a Board for investigation and report, and in such case the award of the Court may, if the Court thinks fit, be based on the report of the Board.

#### Court may dismiss frivolous cases.

86. The Court may at any time dismiss any matter referred to it which it thinks frivolous or trivial, and in such case the award may be limited to an order upon the party bringing the matter before the Court for payment of costs of bringing the same.

Court may award costs and apportion same.

87. The Court in its award may order any party to pay to the other party such costs and expenses (including expenses of witnesses) as it deems reasonable, and may apportion such costs between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable :

Provided that in no case shall costs be allowed on account of barristers, solicitors, or agents.

When award to be made.

88. The award of the Court on any reference shall be made within one month after the Court began to sit for the hearing of the reference, or within such extended time as in special circumstances the Court thinks fit.

Award to be signed, sealed, and deposited in office.

89. (1.) The award shall be signed by the Judge, and have the seal of the Court attached thereto, and shall be deposited in the office of the Clerk of the district wherein the reference arose, and be open to inspection without charge during office hours by all persons interested therein.

(2.) The Clerk shall upon application supply certified copies of the award for a prescribed fee.

Terms of award.

90. (1.) The award shall be framed in such manner as shall best express the decision of the Court, avoiding all technicality where possible, and shall specify—

- (a.) Each original party on whom the award is binding, being in every case each trade-union, industrial union, industrial association, or employer who is party to the proceedings at the time when the award is made :
- (b.) The industry to which the award applies :
- (c.) The industrial district to which the award relates, being in every case the industrial district in which the proceedings were commenced :
- (d.) The currency of the award, being any specified period not exceeding three years from the date of the award :

Provided that, notwithstanding the expiration of the currency of the award, the award shall continue in force until a new award has been duly made or an industrial agreement entered into, except where, pursuant to the provisions of section twenty-one or twenty-two hereof, the registration of an industrial union of workers bound by such award has been cancelled.

(2.) The award shall also state in clear terms what is or is not to be done by each party on whom the award is binding, or by the workers affected by the award, and may provide for an alternative course to be taken by any party :

Provided that in no case shall the Court have power to fix any age for the commencement or termination of apprenticeship.

(3.) The award, by force of this Act, shall extend to and bind as subsequent party thereto every trade-union, industrial union, industrial association, or employer who, not being an original party thereto, is at any time whilst the award is in force connected with or engaged in the industry to which the award applies within the industrial district to which the award relates.

(4.) The Court may in any award made by it limit the operation of such award to any city, town, or district being within or part of any industrial district.

(5.) The Court shall in such case have power, on the application of any trade-union, industrial union, industrial association, or employer in any industrial district within which the award has effect, to extend the provisions of such award (if such award has been limited in its operation as aforesaid) to any trade-union, industrial union, industrial association, employer, or person within such industrial district.

(6.) The Court may, if it thinks fit, limit the operation of any award heretofore made to any particular town, city, or locality in any industrial district in which such award now has effect.

(7.) The extension or limitation referred to in subsections five and six of this section shall be made upon such notice to and application of such parties as the Court may in its discretion direct.

Awards made prior to Act to continue in force.

91. (1.) Any award in force on the coming into operation of this Act shall, notwithstanding the expiration of the currency of such award, continue in force until a new award has been made under this Act, except where, pursuant to the provisions of section twenty-one or twenty-two hereof, the registration of an industrial union of workers bound by such award has been cancelled.

(2.) The Court may, upon notice to any trade-union, industrial union, industrial association, or employer within the district, and engaged in the industry to which any such award applies, not being an original party thereto, extend the award and its provisions to such trade-union, industrial union, industrial association, or employer.

Special powers to extend, or join parties to, an award.

92. (1.) With respect to every award, whether made before or after the coming into operation of this Act, the following special powers shall be exercisable by the Court by order at any time during the currency of the award, that is to say :—

(a.) Power to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto :

(b.) Power to extend the award so as to join and bind as party thereto any specified trade-union, industrial union, industrial

association, or employer in New Zealand not then bound thereby or party thereto, but connected with or engaged in the same industry as that to which the award applies :

Provided that the Court shall not act under this paragraph except where the award relates to a trade or manufacture the products of which enter into competition in any market with those manufactured in another industrial district, and a majority of the employers engaged and of the unions of workers concerned in the trade or manufacture are bound by the award :

Provided also that, in case of an objection being lodged to any such award by a union of employers or workers in a district other than that in which the award was made, the Court shall sit for the hearing of the said objection in the district from which it comes, and may amend or extend the award as it thinks fit :

Provided further that, notwithstanding anything contained in this paragraph, the Court may extend an award to another industrial district so as to join and bind as parties to the award any specified trade-union, industrial union, industrial association, or employer where the award relates to a trade or manufacture the products of which enter into competition in any market with those manufactured in the industrial district wherein the award is in force.

Workers to whom award to extend.

(2.) The award, by force of this Act, shall also extend to and bind every worker who is at any time whilst it is in force employed by any employer on whom the award is binding ; and if such worker commits any breach of the award he shall be liable to a fine not exceeding ten pounds, to be recovered in like manner as if he were a party to the award. This provision shall be deemed to have been in force on and from the twentieth day of October, one thousand nine hundred (being the date of the coming into operation of " The Industrial Conciliation and Arbitration Act, 1900 ").

Application may be made to Court by any party.

93. (1.) The powers by the last preceding section conferred upon the Court may be exercised on the application of any party bound by the award.

(2.) At least thirty days' notice of the application shall be served on all other parties, including, in the case of an application under paragraph (b) of that section, every trade-union, industrial union, industrial association, or employer to whom it is desired that the award should be extended.

(3.) The application may be made to the Court direct without previous reference to the Board.

Court may add parties to an award.

94. (1.) Notwithstanding anything to the contrary in this Act, the Court shall have full power, upon being satisfied that reasonable notice has been given of any application in that behalf, to add any party or parties to any award; and thereupon any such party or parties shall be bound by the provisions thereof, subject to any condition or qualification contained in the order adding such party or parties.

(2.) Orders adding parties heretofore made by the Court shall be valid as if made in exercise of the foregoing power, whether made in pursuance of a reservation in the award or not.

Award may be applied to different trades in one business.

95. (1.) Where workers engaged upon different trades are employed in any one business of any particular employer, the Court may make one award applicable to such business, and embracing, as the Court thinks fit, the whole or part of the various branches constituting the business of such employer.

(2.) Before the Court shall exercise such power notice shall be given to the respective industrial unions of workers engaged in any branch of such business.

Award under seal to be evidence.

96. (1.) In all legal and other proceedings on the award it shall be sufficient to produce the award with the seal of the Court thereto, and it shall not be necessary to prove any conditions precedent entitling the Court to make the award.

Proceedings not to be impeached for want of form.

(2.) Proceedings in the Court shall not be impeached or held bad for want of form, nor shall the same be removable to any Court by *certiorari* or otherwise; and no award, order, or proceeding of the Court shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of judicature on any account whatsoever.

Court to fix what constitutes breach of award and penalty therefor.

97. The Court in its award, or by order made on the application of any of the parties at any time whilst the award is in force, may fix and determine what shall constitute a breach of the award, and what sum, not exceeding five hundred pounds, shall be the maximum fine payable by any party in respect of any breach.

Court may prescribe minimum rate of wages.

98. The Court in its award, or by order made on the application of any of the parties at any time whilst the award is in force, may prescribe a minimum rate of wages or other remuneration, with special provision for a lower rate being fixed in the case of any worker who is unable to earn the prescribed minimum:

Provided that such lower rate shall in every case be fixed by such tribunal in such manner and subject to such provisions as are specified in that behalf in the award or order.

Amount of costs or expenses to be fixed.

99. In every case where the Court in its award or other order directs the payments of costs or expenses it shall fix the amount thereof, and specify the parties or persons by and to whom the same shall be paid.

Inspectors of Awards.

100. (1.) Every Inspector appointed under "The Factories Act, 1908," shall be an Inspector of Awards under this Act, and shall be charged with the duty of seeing that the provisions of any industrial agreement, or award, or order of the Court are duly observed.

(2.) Every Inspector of Mines appointed under either "The Coal-mines Act, 1908," or "The Mining Act, 1908," shall be an Inspector of Awards, and shall be charged with the duty of seeing that the provisions of any such agreement, award, or order are duly observed in any coal-mine or mine within his district.

(3.) In the discharge of such duty an Inspector of Awards may require any employer or worker to produce for his examination any wages-books and overtime-books necessary for the purposes of this section; and, in addition, every such Inspector shall have and may exercise all the powers conferred on Inspectors of Factories by section six of "The Factories Act, 1908," and that section and section seven of the same Act shall, *mutatis mutandis*, extend and apply to Inspectors of Awards.

(4.) Except for the purposes of this Act, and in the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which in the exercise of such functions he acquires; and any Inspector who, in contravention of this Act, divulges any information shall be liable to a fine not exceeding fifty pounds.

Provisions for enforcing awards.

101. For the purpose of enforcing any award or order of the Court, whether made before or after the coming into operation of this Act (but not being an order under section one hundred and three hereof), the following provisions shall apply:—

- (a.) In so far as the award itself imposes a fine or costs it shall be deemed to be an order of the Court, and payment shall be enforceable accordingly under the subsequent provisions of this section relating to orders of the Court.
- (b.) If any party on whom the award is binding commits any breach thereof by act or default, then, subject to the provisions of the last preceding paragraph hereof, the Inspector of Awards, or any party to the award, may, by application in the prescribed form, apply to the Court for the enforcement of the award.



- (c.) On the hearing of such application the Court may by order either dismiss the application or impose such fine for the breach of the award as it deems just, and in either case with or without costs :

Provided that in no case shall costs be given against the Inspector.

- (d.) If the order imposes a fine or costs it shall specify the parties liable to pay the same, and the parties or persons to whom the same are payable :

Provided that the aggregate amount of fines payable under any award or order of the Court shall not exceed five hundred pounds.

- (e.) For the purpose of enforcing payment of the fine and costs payable under any order of the Court, a certificate in the prescribed form, under the hand of the Clerk and the seal of the Court, specifying the amount payable and the respective parties or persons by and to whom the same is payable, may be filed in any Court having civil jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, be enforceable in all respects as a final judgment of such Court in its civil jurisdiction :

Provided that, for the purpose of enforcing satisfaction of such judgment where there are two or more judgment creditors thereunder, process may be issued separately by each judgment creditor against the property of his judgment debtor in like manner as in the case of a separate and distinct judgment.

- (f.) All property belonging to the judgment debtor (including therein, in the case of a trade-union or an industrial union or industrial association, all property held by trustees for the judgment debtor) shall be available in or towards satisfaction of the judgment debt, and if the judgment debtor is a trade-union or an industrial union or an industrial association, and its property is insufficient to fully satisfy the judgment debt, its members shall be liable for the deficiency :

Provided that no member shall be liable for more than ten pounds under this paragraph.

- (g.) For the purpose of giving full effect to the last preceding paragraph, the Court or the Judge thereof may, on the application of the judgment creditor, make such order or give such directions as are deemed necessary, and the trustees, the judgment debtor, and all other persons concerned shall obey the same.

#### Provisions for enforcing industrial agreements.

102. For the purpose of enforcing industrial agreements, whether made before or after the coming into operation of this Act, the pro-

visions of paragraphs (b) to (g) of the last preceding section shall, *mutatis mutandis*, apply in like manner in all respects as if an industrial agreement were an award of the Court, and the Court shall accordingly have full and exclusive jurisdiction to deal therewith.

Jurisdiction of Court to deal with offences.

103. The Court shall have full and exclusive jurisdiction to deal with all offences under paragraph (f) of section eighty-three, section one hundred and eight, section one hundred and fourteen, section one hundred and fifteen, or section one hundred and twenty hereof, and for that purpose the following provisions shall apply :—

- (a.) Proceedings to recover the fine by this Act imposed in respect of any such offence shall be taken in the Court in a summary way under the provisions of “ The Justices of the Peace Act, 1908,” and those provisions shall, *mutatis mutandis*, apply in like manner as if the Court were a Court of Justices exercising summary jurisdiction under that Act :

Provided that in the case of an offence under section one hundred and fourteen of this Act (relating to contempt of Court) the Court, if it thinks fit so to do, may deal with it forthwith without the necessity of an information being taken or a summons being issued.

- (b.) For the purpose of enforcing any order of the Court made under this section, a duplicate thereof shall by the Clerk of Awards be filed in the nearest office of the Magistrate’s Court, and shall thereupon, according to its tenor, be enforced in all respects as a final judgment, conviction, or order duly made by a Magistrate under the summary provisions of “ The Justices of the Peace Act, 1908.”
- (c.) The provisions of section ninety-six hereof shall, *mutatis mutandis*, apply to all proceedings and orders of the Court under this section.
- (d.) All fines recovered under this section shall be paid into the Public Account and form part of the Consolidated Fund.

Court may make rules.

104. The Court shall have power to make rules for the purpose of regulating the practice and procedure of the Court, and the proceedings of parties ; provided that such rules shall not conflict with regulations made under section one hundred and twenty-seven hereof.

*General Provisions as to Board and Court.*

Disqualification of members of Board or Court.

105. The following persons shall be disqualified from being appointed, or elected, or from holding office as Chairman or as member of

any Board, or as nominated member or acting nominated member of the Court : and if so elected or appointed shall be incapable of continuing to hold the office :—

- (a.) A bankrupt who has not obtained his final order of discharge ;
- (b.) Any person convicted of any crime for which the punishment is imprisonment with hard labour for a term of six months or upwards : or
- (c.) Any person of unsound mind : or
- (d.) An alien.

Case may be stated for Supreme Court.

106. The Judge is hereby empowered to state a case for the opinion of the Supreme Court, or otherwise to obtain the opinion of the said Court or a Judge or Judges thereof, respecting any question touching the jurisdiction of the Court or of any Board of Conciliation or special Board.

Jurisdiction not affected by fact that no member of union is concerned in dispute.

107. (1.) Where an industrial union of workers is party to an industrial dispute, the jurisdiction of the Board or Court to deal with the dispute shall not be affected by reason merely that no member of the union is employed by any party to the dispute, or is personally concerned in the dispute.

References to Board or Court to be approved by resolution of union.

(2.) An industrial dispute shall not be referred for settlement to a Board by an industrial union or association, nor shall any application be made to the Court by any such union or association for the enforcement of any industrial agreement or award or order of the Court, unless and until the proposed reference or application has been approved by the members in manner following, that is to say :—

- (a.) In the case of an industrial union, by resolution passed at a special meeting of the union and confirmed by subsequent ballot of the members, a majority of the votes recorded being in favour thereof, the result of such ballot to be recorded on the minutes ; and
- (b.) In the case of an industrial association, by resolution passed at a special meeting of the members of the governing body of the association, and confirmed at special meetings of a majority of the unions represented by the association.

Special meeting for such purpose.

(3.) Each such special meeting shall be duly constituted, convened, and held in manner provided by the rules, save that notice of the proposal to be submitted to the meeting shall be posted to all the members, and that the proposal shall be deemed to be carried if, but

not unless, a majority of all the members present at the meeting of the industrial union or of the governing body of the industrial association vote in favour of it.

Certificate of chairman evidence.

(4.) A certificate under the hand of the chairman of any such special meeting shall, until the contrary is shown, be sufficient evidence as to the due constitution and holding of the meeting, the nature of the proposal submitted, and the result of the voting.

Special provisions in case of an industrial dispute.

108. In every case where an industrial dispute has been referred to the Board the following special provisions shall apply :—

- (a.) Until the dispute has been finally disposed of by the Board or the Court neither the parties to the dispute nor the workers affected by the dispute shall, on account of the dispute, do or be concerned in doing, directly or indirectly, anything in the nature of a strike or lock-out, or of a suspension or discontinuance of employment or work, but the relationship of employer and employed shall continue uninterrupted by the dispute, or anything arising out of the dispute, or anything preliminary to the reference of the dispute and connected therewith.
- (b.) If default is made in faithfully observing any of the foregoing provisions of this section, every union, association, employer, worker, or person committing or concerned in committing the default shall be liable to a fine not exceeding fifty pounds.
- (c.) The dismissal or suspension of any worker, or the discontinuance of work by any worker, pending the final disposition of an industrial dispute shall be deemed to be a default under this section, unless the party charged with such default satisfies the Court that such dismissal, suspension, or discontinuance was not on account of the dispute.

When dismissal of employee breach of Act.

109. (1.) Every employer who dismisses from his employment any worker by reason merely of the fact that the worker is a member of an industrial union, or who is conclusively proved to have dismissed such worker merely because he is entitled to the benefit of an award, order, or agreement, shall be deemed to have committed a breach of the award, order, or agreement, and shall be liable accordingly.

When worker deemed dismissed.

(2.) In any proceedings before the Court relating to the dismissal of a worker, a worker shall be deemed to be dismissed when he is suspended for a longer period than ten days.

## Combining to defeat award.

110. If during the currency of an award any employer, worker, industrial union or association, or any combination of either employers or workers has taken proceedings with the intention to defeat any of the provisions of the award, such employer, worker, union, association, or combination, and every member thereof respectively, shall be deemed to have committed a breach of the award, and shall be liable accordingly.

## Provisions in case of strike or lock-out.

111. (1.) Any industrial union or industrial association or employer, or any worker, whether a member of any such union or association or not, who strikes or creates a lock-out, or takes part in a strike or lock-out, or proposes, aids, or abets a strike or lock-out or a movement intended to produce a strike or lock-out, is guilty of an offence, and liable to a fine, and may be proceeded against in the same manner as if the offender were guilty of a breach of an award :

Provided that the fine shall not exceed one hundred pounds for any such offence in the case of a union, association, or employer, or ten pounds in the case of a worker.

(2.) No worker shall be subject to a fine merely because he refuses to work, or announces his intention to refuse to work, at the rate of wages fixed by any award or industrial agreement, unless the Court is satisfied that such refusal was in pursuance of an intention to commit a breach of this section.

(3.) This section shall only apply when in the district where the alleged offence is committed an award or industrial agreement is in force relating to the trade in connection with which such strike or lock-out has occurred or is impending.

(4.) The Court may accept any evidence that seems to it relevant to prove that a strike or lock-out has taken place or is impending.

(5.) Where it is alleged in any application made by any person empowered by law to enforce an award that a strike or lock-out was taking place or is impending the Court may, after the Judge has appointed a special date for the hearing of evidence respecting the same, issue summonses to all persons and bodies suspected of having committed offences hereunder, and may deal with any such person or body as if specifically charged with the offences alleged.

(6.) Such summonses may be served by registered letter or otherwise in the same manner in which summonses or notices may be served in connection with the enforcement of an award.

## Appointment of experts as assessors to Board or Court.

112. Whenever an industrial dispute involving technical questions is referred to the Board or Court the following special provisions shall apply :—

- (a.) At any stage of the proceedings the Board or the Court may direct that two experts nominated by the parties shall sit as experts.
- (b.) One of the experts shall be nominated by the party, or, as the case may be, by all the parties, whose interests are with the employers; and one by the party, or, as the case may be, by all the parties, whose interests are with the workers.
- (c.) The experts shall be nominated in such manner as the Board or Court directs, or as is prescribed by regulations, but shall not be deemed to be members of the Board or Court for the purpose of disposing of such dispute.
- (d.) The powers by this section conferred upon the Board and the Court respectively shall, whilst the Board or the Court is not sitting, be exercisable by the Chairman of the Board and the Judge of the Court respectively.

Powers of Board or Court as to joinder, waiver, and extension of time.

113. (1.) In order to enable the Board or Court the more effectually to dispose of any matter before it according to the substantial merits and equities of the case, it may, at any stage of the proceedings, of its own motion or on the application of any of the parties, and upon such terms as it thinks fit, by order,—

- (a.) Direct parties to be joined or struck out;
- (b.) Amend or waive any error or defect in the proceedings;
- (c.) Extend the time within which anything is to be done by any party; and
- (d.) Generally give such directions as are deemed necessary or expedient in the premises.

Exercise of powers when Board or Court not sitting.

(2.) The powers by this section conferred upon the Board may, when the Board is not sitting, be exercised by the Chairman.

(3.) The powers by this section conferred upon the Court may, when the Court is not sitting, be exercised by the Judge.

Contempt of Board or Court.

114. If in any proceedings before the Board or Court any person wilfully insults any member of the Board or Court or the Clerk, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board or Court, it shall be lawful for any officer of the Board or Court, or any constable, to take the person offending into custody and remove him from the precincts of the Board or Court, to be detained in custody until the rising of the Board or Court, and the person so offending shall be liable to a fine not exceeding ten pounds.

## Obstruction of Board or Court.

115. Every person who prints or publishes anything calculated to obstruct or in any way interfere with or prejudicially affect any matter before the Board or Court is liable to a fine not exceeding fifty pounds.

Power to proceed if any party fail to attend.

116. If, without good cause shown, any party to proceedings before the Board or Court fails to attend or be represented, the Board or Court may proceed and act as fully in the matter before it as if such party had duly attended or been represented.

Proceedings to continue on change in Board or Court.

117. Where any change takes place in the members constituting the Board or the Court, any proceeding or inquiry then in progress shall not abate or be affected, but shall continue and be dealt with by the Board or the Court as if no such change had taken place :

Provided that the Board or the Court may require evidence to be retaken where necessary.

Proceedings not to abate by reason of death.

118. (1.) Proceedings before the Board or Court shall not abate by reason of the seat of any member of the Board or Court being vacant for any cause whatever, or of the death of any party to the proceedings, and in the latter case the legal personal representative of the deceased party shall be substituted in his stead.

Recommendation or award not void for informality.

(2.) A recommendation or order of the Board, or an award or order of the Court, shall not be void or in any way vitiated by reason merely of any informality or error of form, or non-compliance with this Act.

Proceedings of Board or Court to be public.

119. (1.) The proceedings of the Board or Court shall be conducted in public :

Provided that, at any stage of the proceedings before it, the Board or Court, of its own motion or on the application of any of the parties, may direct that the proceedings be conducted in private ; and in such case all persons (other than the parties, their representatives, the officers of the Board or Court, and the witness under examination) shall withdraw.

When sittings held.

(2.) The Board or Court may sit during the day or at night, as it thinks fit.

Powers of entry to Board or Court for examination of factories, &c.

120. (1.) Any Board and the Court, and, upon being authorised in writing by the Board or Court, any member of such Board or Court

respectively, or any officer of such Board or Court, or any other person without any other warrant than this Act, may at any time between sunrise and sunset, —

- (a.) Enter upon any manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises of any kind whatsoever, wherein or in respect of which any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which is made the subject of a reference to such Board or Court :

Inspection of work and interrogation of persons.

- (b.) Inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises as aforesaid :
- (c.) Interrogate any person or persons who may be in or upon any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises as aforesaid in respect of or in relation to any matter or thing hereinbefore mentioned.

(2.) Every person who hinders or obstructs the Board or Court, or any member or officer thereof respectively, or other person, in the exercise of any power conferred by this section, or who refuses to the Board or Court, or any member or officer thereof respectively duly authorised as aforesaid, entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, or refuses to answer any question put to him as aforesaid, is liable to a fine not exceeding fifty pounds.

### SPECIAL AS TO GOVERNMENT RAILWAYS.

Provisions as to Government railways.

121. With respect to the Government railways open for traffic the following special provisions shall apply, anything elsewhere in this Act to the contrary notwithstanding :—

Amalgamated Society of Railway Servants deemed registered.

- (a.) The society of railway servants called “ the Amalgamated Society of Railway Servants,” and now registered under the Acts of which this Act is a consolidation, shall be deemed to be registered under this Act.
- (b.) In the case of the dissolution of the said society, any reconstruction thereof, or any society of Government railway servants formed in its stead, may register under this Act as an industrial union of workers.



May enter into industrial agreement with Minister.

- (c.) The Minister of Railways may from time to time enter into industrial agreements with the registered society in like manner in all respects as if the management of the Government railways were an industry, and he were the employer of all workers employed therein.

Procedure in case of disputes.

- (d.) If any industrial dispute arises between the Minister and the society it may be referred to the Court for settlement as hereinafter provided.
- (e.) The society may, by petition filed with the Clerk and setting forth the particulars of the matters in dispute, pray the Court to hear and determine the same.
- (f.) Such petition shall be under the seal of the society and the hands of two members of the committee of management.
- (g.) No such petition shall be filed except pursuant to a resolution of a special meeting of the society duly called for the purpose in accordance with its rules, and with respect to such resolution and the procedure thereon section one hundred and seven shall apply.

Jurisdiction of Court.

- (h.) Such petition when duly filed shall be referred to the Court by the Clerk, and the Court, if it considers the dispute sufficiently grave to call for investigation and settlement, shall notify the Minister thereof, and appoint a time and place at which the dispute will be investigated and determined, in like manner as in the case of a reference, and the Court shall have jurisdiction to hear and determine the same accordingly and to make award thereon.
- (i.) In making any award under this section the Court shall have regard to the Schedule of classification in "The Government Railways Act, 1908."
- (j.) In any proceedings before the Court under this section the Minister may be represented by any officer of the Department whom he appoints in that behalf.
- (k.) All expenses incurred and moneys payable by the Minister under this section shall be payable out of moneys to be appropriated by Parliament for the purpose.
- (l.) In no case shall the Board have any jurisdiction over the society, nor shall the society or any branch thereof have any right to nominate or vote for the election of any member of the Board.
- (m.) Except for the purposes of this section the Court shall have no jurisdiction over the society.

- (n.) For the purposes of the appointment of members of the Court the society shall be deemed to be an industrial union of workers, and may make recommendations to the Governor accordingly.

#### MISCELLANEOUS.

Awards to continue in force when portion of district severed.

122. Whenever any portion of a district is severed therefrom, and either added to another district or constituted a new district or part of a new district, every award and industrial agreement in force in the district from which such portion is severed shall, so far as it is in force in such portion, remain in force therein until superseded by another award or industrial agreement.

Permit to work at less than minimum wage.

123. Where in any award provision is made for the issue of a permit to any worker to accept a wage below that prescribed for ordinary workers in the trade to which the award relates the following provisions shall apply :—

- (a.) The application for a permit shall be in writing, signed by the applicant, and addressed to the person authorised by the award to issue the same.
- (b.) Such person shall fix a time and place for the hearing of such application, being not later than two days after the receipt by him of the application, and shall give notice of such time and place to the secretary of the industrial union of workers in the trade to which the award relates.
- (c.) Such notice shall be in writing, and may be delivered to the secretary personally or left at the registered office of the industrial union within twenty-four hours after the receipt of the application.
- (d.) Such secretary, or some other person appointed in that behalf by the union, shall be afforded an opportunity to attend the hearing so as to enable the union to express its views upon the application.

Notifications in *Gazette* to be evidence.

124. Any notification made or purporting to be made in the *Gazette* by or under the authority of this Act may be given in evidence in all Courts of justice, in all legal proceedings, and for any of the purposes of this Act by the production of a copy of the *Gazette*.

Documents under seal of Court and certain signatures to be judicially noticed.

125. (1.) Every document bearing the seal of the Court shall be received in evidence without further proof, and the signature of the Judge of the Court, or the Chairman of the Board, or the Registrar, or

the Clerk of Awards shall be judicially noticed in or before any Court or person or officer acting judicially or under any power or authority contained in this Act :

Provided such signature is attached to some award, order, certificate, or other official document made or purporting to be made under this Act or any enactment mentioned in the Schedule hereto.

(2.) No proof shall be required of the handwriting or official position of any person acting in pursuance of this section.

Service of process on Sundays void.

126. (1.) No person shall serve or cause to be served on Sunday any order or other process of the Court, and such service shall be void to all intents and purposes whatsoever.

(2.) Every person who commits a breach of this section is liable to a fine not exceeding ten pounds, to be recovered in a summary way under "The Justices of the Peace Act, 1908."

(3.) Nothing in this section shall be construed to annul, repeal, or in any way affect the common law, or the provisions of any statute or rule of practice or procedure, now or hereafter in force, authorising the service of any writ, process, or warrant.

Regulations.

127. (1.) The Governor may from time to time make regulations for any of the following purposes :—

- (a.) Prescribing the forms of certificates or other instruments to be issued by the Registrar, and of any certificate or other proceeding of any Board or any officer thereof ;
- (b.) Prescribing the duties of Clerks of Awards, and of all other officers and persons acting in the execution of this Act ;
- (c.) Providing for anything necessary to carry out the first or any subsequent election of members of Boards, or on any vacancy therein or in the office of Chairman of any Board, including the forms of any notice, proceeding, or instrument of any kind to be used in or in respect of any such election ;
- (d.) Providing for the mode in which recommendations by industrial unions as to the appointment of members of the Court shall be made and authenticated ;
- (e.) Prescribing any act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before a Board or the Court, or the transfer of such proceedings from one of such bodies to the other ;
- (f.) Providing generally for any other matter or thing necessary to give effect to this Act or to meet any particular case ;
- (g.) Prescribing what fees shall be paid in respect of any proceeding before a Board or the Court, and the party by whom such fees shall be paid ;
- (h.) Prescribing what respective fees shall be paid to the members of the Board ;

- (i.) Prescribing what respective travelling-expenses shall be payable to the members of the Court (including the Judge) and to the members of the Board ; and
- (j.) For any other purpose for which regulations are contemplated or required in order to give full effect to this Act.

Regulations to be laid before Parliament.

(2.) All such regulations shall come into force on the date of the gazetting thereof, and shall, within fourteen days after such gazetting, be laid before Parliament if in session, or if not in session, then within fourteen days after the beginning of the next session.

Saving of fees payable in other Courts.

128. Nothing in this Act or the regulations thereunder shall supersede any fees payable by law in respect of proceedings under "The Justices of the Peace Act, 1908," or in any Court of judicature.

Expenses of administration payable out of moneys appropriated.

129. Except as provided by subsection five of section sixty-five and subsection two of section seventy-four hereof, all charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such annual appropriations as from time to time are made for that purpose by Parliament.

Stamp duty not payable in certain cases.

130. No stamp duty shall be payable upon or in respect of any registration, certificate, agreement, award, statutory declaration, or instrument effected, issued, or made under this Act :

Provided that nothing in this section shall apply to the fees of any Court payable by means of stamps.

Act not to apply to Crown or Government Departments.

131. Except as provided by section one hundred and twenty-one hereof, or by the special provisions of any other Act, nothing in this Act shall apply to the Crown or to any Department of the Government of New Zealand.

---

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

- 1884, No. 23.—"The Supreme Court Practice and Procedure Amendment Act, 1884" : Section 3, so far as applicable.
- 1905, No. 32.—"The Industrial Conciliation and Arbitration Acts Compilation Act, 1905" : Including "The Industrial Conciliation and Arbitration Act, 1905."
- 1905, No. 56.—"The Industrial Conciliation and Arbitration Amendment Act, 1905."
- 1906, No. 40.—"The Industrial Conciliation and Arbitration Act Amendment Act, 1906."

# THE INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT ACT, 1908.

1908, No. 239.

AN ACT to amend "The Industrial Conciliation and Arbitration Act, 1908."

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. This Act may be cited as "The Industrial Conciliation and Arbitration Amendment Act, 1908," and shall be read together with and deemed to form part of "The Industrial Conciliation and Arbitration Act, 1908" (hereinafter referred to as "the principal Act").

## Commencement of Act.

2. This Act shall come into operation on the first day of January, nineteen hundred and nine.

## PART I.

### STRIKES AND LOCK-OUTS.

#### Definition of "strike."

3. (1.) In this Act the term "strike" means the act of any number of workers who are or have been in the employment whether of the same employer or of different employers in discontinuing that employment, whether wholly or partially, or in breaking their contracts of service, or in refusing or failing after any such discontinuance to resume or return to their employment, the said discontinuance, breach, refusal, or failure being due to any combination, agreement, or common understanding, whether express or implied, made or entered into by the said workers—

- (a.) With intent to compel or induce any such employer to agree to terms of employment, or comply with any demands made by the said or any other workers ; or
- (b.) With intent to cause loss or inconvenience to any such employer in the conduct of his business ; or
- (c.) With intent to incite, aid, abet, instigate, or procure any other strike ; or
- (d.) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers.

(2.) In this Act the expression "to strike" means to become a party to a strike, and the term "striker" means a party to a strike.

Definition of "lock-out."

4. In this Act the term "lock-out" means the act of an employer in closing his place of business, or suspending or discontinuing his business or any branch thereof—

- (a.) With intent to compel or induce any workers to agree to terms of employment, or comply with any demands made upon them by the said or any other employer; or
- (b.) With intent to cause loss or inconvenience to the workers employed by him or to any of them; or
- (c.) With intent to incite, aid, abet, instigate, or procure any other lock-out; or
- (d.) With intent to assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him.

Penalties on parties to strike or to lock-out.

5. (1.) When a strike takes place in any industry every worker who is or becomes a party to the strike and who is at the commencement of the strike bound by any award or industrial agreement affecting that industry shall be liable to a penalty not exceeding ten pounds.

(2.) When a lock-out takes place in any industry every employer who is or becomes a party to the lock-out, and who is at the commencement of the lock-out bound by any award or industrial agreement affecting that industry, shall be liable to a penalty not exceeding five hundred pounds.

(3.) No worker or employer shall be liable to more than one penalty in respect of the same strike or lock-out, notwithstanding the continuance thereof.

(4.) No proceedings shall be commenced or continued under this section against any worker or employer who is a party to a strike or lock-out if judgment has already been obtained under the next succeeding section in respect of the same strike or lock-out against any industrial union or industrial association of which the worker or employer is a member.

Offences in connection with strike or lock-out by persons not parties thereto.

6. (1.) Every person who incites, instigates, aids, or abets an unlawful strike or lock-out or the continuance of any such strike or lock-out, or who incites, instigates, or assists any person to become a party to any such strike or lock-out, is liable, if a worker, to a penalty not exceeding ten pounds, and if an industrial union, industrial association, trade-union, employer, or any person other than a worker, to a penalty not exceeding two hundred pounds.

(2.) Every person who makes any gift of money or other valuable thing to or for the benefit of any person who is a party to any unlawful strike or lock-out, or to or for the benefit of any industrial union, industrial association, trade-union, or other society or association of which any such person is a member, shall be deemed to have aided or abetted the strike or lock-out within the meaning of this section, unless he proves that he so acted without the intent of aiding or abetting the strike or lock-out.

(3.) When a strike or lock-out takes place, and a majority of the members of any industrial union or industrial association are at any time parties to the strike or lock-out, the said union or association shall be deemed to have instigated the strike or lock-out.

(4.) In this section the term "unlawful strike" means a strike of any workers who are bound at the commencement of the strike by an award or industrial agreement affecting the industry in which the strike arises.

(5.) In this section the term "unlawful lock-out" means a lock-out by any employer who is bound at the commencement of the lock-out by an award or industrial agreement affecting the industry in which the lock-out occurs.

#### Recovery of penalties.

7. Every penalty hereinbefore referred to shall be recoverable at the suit of an Inspector of Awards in the same manner as a penalty for a breach of an award and not otherwise, and all the provisions hereinafter in this Act contained with respect to the enforcement of an award shall, so far as applicable, apply accordingly.

#### Repeal.

8. Section one hundred and eleven of the principal Act is hereby repealed, but in respect of all offences committed against that section before the commencement of this Act the same proceedings may be taken or continued as if this Act had not been passed.

#### Special penalties with respect to strikes and lock-outs in certain specified industries.

9. (1.) If any person employed in any of the industries to which this section applies strikes without having given to his employer, within one month before so striking, not less than fourteen days' notice in writing, signed by him, of his intention to strike, or strikes before the expiry of any notice so given by him, the striker shall be liable on summary conviction before a Magistrate to a fine not exceeding twenty-five pounds.

(2.) If any employer engaged in any of the industries to which this section applies locks out without having given to his employees, within one month before so locking out, not less than fourteen days' notice in writing of his intention to lock out, or locks out before the

expiry of any notice so given by him, such employer shall be liable on summary conviction before a Magistrate to a fine not exceeding five hundred pounds.

(3.) This section applies to the following industries :—

(a.) The manufacture or supply of coal-gas :

(b.) The production or supply of electricity for light or power :

(c.) The supply of water to the inhabitants of any borough or other place :

(d.) The supply of milk for domestic consumption :

(e.) The slaughtering or supply of meat for domestic consumption :

(f.) The sale or delivery of coal, whether for domestic or industrial purposes :

(g.) The working of any ferry, tramway, or railway used for the public carriage of goods or passengers.

(4.) Every person who incites, instigates, aids, or abets any offence against this section, or who incites, instigates, or assists any person who has struck or locked out in breach of this section to continue to be a party to the strike or lock-out shall be liable, on summary conviction before a Magistrate, to a fine not exceeding in the case of a worker twenty-five pounds, or in the case of an industrial union, industrial association, trade-union, employer, or any person other than a worker, five hundred pounds.

(5.) Nothing in this section shall affect any liability under section five or section six of this Act, save that when a judgment or conviction has been obtained against any person under any one of those sections no further proceedings shall be taken or continued against him under any other of those sections in respect of the same act.

Suspension of registration of union convicted of certain offences.

10. (1.) When an industrial union or industrial association of workers is convicted under section nine of this Act of having incited, instigated, aided, or abetted a strike by any of its members in breach of that section, or the continuance by any of its members of a strike commenced in breach of that section, or when judgment is obtained under section six of this Act against an industrial union or industrial association of workers for a penalty incurred by it for inciting, instigating, aiding, or abetting a strike by any of its members, or the continuance of any such strike, or for inciting, instigating, or assisting any person to become a party to any such strike, the Court in which the conviction or judgment is obtained may in the said conviction or judgment order that the registration of the union or association shall be suspended for such period as the Court thinks fit, not exceeding two years.

(2.) During any such period of suspension the said union or association shall be incapable of instituting or continuing or of being a party to any conciliation or arbitration proceedings under the prin-



principal Act or this Act, or of entering into any industrial agreement, or of taking or continuing any proceedings for the enforcement of an award or industrial agreement, or of making any application for the cancellation of its registration.

(3.) During any such period of suspension the operation of any award or industrial agreement in force at any time during that period shall be suspended so far as the award or industrial agreement applies to persons who are members of that union or association, or who were members thereof at the time when the offence was committed in respect of which the said judgment or conviction was given or obtained, and also so far as the award or industrial agreement applies to the employers of any such persons :

Provided that in making the order of suspension the Court may limit the operation of this subsection to any industrial district or districts, or to any portion thereof.

(4.) During any period of such suspension no new industrial union or industrial association of workers shall be registered in the same industrial district in respect of the same industry.

(5.) The industrial union or industrial association against which any such order of suspension is made may appeal therefrom in the same manner as from the judgment or conviction in respect of which the order is made, and on any such appeal the Court in which it is heard may confirm, vary, or quash the order of suspension, and may make such order as to the costs of the appeal as the said Court thinks fit.

(6.) The variation or quashing of an order of suspension on appeal shall take effect as from the date on which the order is so varied or quashed, and not as from the date of the order.

(7.) Every judgment or conviction in respect of which any such order of suspension is made shall be subject to appeal, whether on a point of law or fact, whatever may be the amount of that judgment or of the fine imposed by that conviction.

## PART II.

### ENFORCEMENT OF AWARDS AND INDUSTRIAL AGREEMENTS.

#### Repeal.

11. Sections thirty, one hundred and one, and one hundred and two of the principal Act are hereby repealed ; but all orders for the payment of fines or other sums of money made before the commencement of this Act, or made thereafter in proceedings instituted before the commencement of this Act, may be enforced in the same manner as if this Act had not been passed.

Application of provisions as to enforcement of awards and agreements.

12. This Part of this Act applies to all awards and industrial agreements whether made before or after the commencement of this Act, and to all breaches of awards or industrial agreements whether

committed before or after the commencement of this Act, save that all proceedings for the enforcement of any award or industrial agreement which are pending at the commencement of this Act may be continued in the same manner as if this Act had not been passed.

Penalties for breach of award or industrial agreement.

13. (1.) Every industrial union, industrial association, or employer who commits a breach of an award or industrial agreement shall be liable to a penalty not exceeding one hundred pounds in respect of every such breach.

(2.) Every worker who commits a breach of an award or industrial agreement shall be liable to a penalty not exceeding five pounds in respect of every such breach.

Recovery of penalties.

14. (1.) Subject to the provisions of section twenty-one hereof, every such penalty shall be recoverable by action in a Magistrate's Court, and not otherwise.

(2.) Every such action may be brought in any Magistrate's Court in any industrial district in which the award or industrial agreement is in force or in which the cause of action or any part thereof arose, and shall be heard and determined by a Magistrate only.

(3.) Every such action may be brought at the suit of an Inspector of Awards or at the suit of any party to the award or industrial agreement.

(4.) A claim for two or more penalties against the same defendant may be joined in the same action, although the aggregate amount so claimed may be in excess of the jurisdiction of the Magistrate's Court in an ordinary action for the recovery of money.

(5.) No Court fees shall be payable in respect of any such action.

(6.) No industrial union or industrial association shall be capable of bringing any such action until a resolution to that effect has been passed at a meeting of the members of the union or association in accordance with the rules thereof. •

(7.) In every such action the summons shall be served on the defendant at least five clear days before the day of the hearing of the action.

Defendant to give notice of intention to defend.

15. Unless within two clear days before the day of the hearing of any such action the defendant delivers to the plaintiff, or to the Clerk of the Magistrate's Court, a notice of his intention to defend the action, he shall not be entitled to defend the same except with the leave of the Magistrate, and the Magistrate may without hearing evidence give judgment for the plaintiff.

Powers of Magistrate hearing action.

16. In any such action the Magistrate may give judgment for the total amount claimed, or any greater or less amount as he thinks

fit (not exceeding in respect of any one breach the maximum penalty hereinbefore prescribed), or, if he is of opinion that the breach proved against the defendant is trivial or excusable, the action may be dismissed, and in any case he may give such judgment as to costs as he thinks fit.

Application of penalties recovered. •

17. (1.) Every penalty recovered in any such action shall be recovered by the plaintiff to the use of the Crown, and the amount thereof shall, when received by the plaintiff, be paid into the Public Account.

(2.) When the plaintiff is any person other than an Inspector of Awards the amount of the penalty shall be paid into Court or to an Inspector of Awards and not to the plaintiff, and shall thereupon be paid by the Clerk of the Court or by the said Inspector into the Public Account.

Magistrate may state case for Court of Arbitration.

18. In any such action the Magistrate may, if he thinks fit, before giving judgment, state a case for the opinion of the Court of Arbitration, and may thereupon adjourn the hearing or determination of the action.

Appeal from Magistrate to Court of Arbitration.

19. (1.) No appeal shall lie from any judgment in any such action to the Supreme Court or District Court; but an appeal shall lie to the Court of Arbitration in the same cases and in the same manner as in the case of an appeal to the Supreme Court or District Court under "The Magistrates' Courts Act, 1908."

(2.) On any such appeal the Court of Arbitration shall have the same powers as the Supreme Court in respect of an appeal from the Magistrate's Court, and the determination of the Court of Arbitration shall be final.

(3.) In respect of any such appeal sections one hundred and fifty-three to one hundred and fifty-eight, and sections one hundred and sixty and one hundred and sixty-one, of "The Magistrates' Courts Act, 1908," shall be applicable, and shall be read as if the references therein to the Supreme Court were references to the Court of Arbitration.

(4.) No such action shall be removed into the Supreme Court.

Enforcement of judgment.

20. The judgment in any such action shall be enforceable in the same manner as a judgment for debt or damages in the Magistrate's Court, and in no other manner:

Provided that, notwithstanding anything to the contrary in section twenty-seven of "The Wages Protection and Contractors' Liens Act, 1908," where application is made in pursuance of any such judgment for the attachment of the wages of any worker, an order of

attachment may be made in respect of the surplus of his wages above the sum of two pounds a week in the case of a worker who is married or is a widower or widow with children, or above the sum of one pound a week in the case of any other worker :

Provided also that, for the purpose of any such application for attachment, all wages which may at any time thereafter become due to the judgment debtor by any employer, although they are not yet earned or owing, and whether they become due in respect of any contract of service existing at the time of the application or made at any later time, shall be deemed to be a debt accruing to the judgment debtor within the meaning of the provisions of "The Magistrates' Courts Act, 1908," relating to the attachment of debts ; and on the making of any order of attachment in respect of such wages the employer shall pay into Court from time to time, as those wages become due and payable, such sum as is sufficient to satisfy the charge imposed thereon by the order of attachment :

Provided also that no charge upon or assignment of his wages, whenever or however made, by any worker shall have any force whatever to defeat or affect an attachment, and an order of attachment may be made and shall have effect as if no such charge or assignment existed :

Provided also that no proceedings shall be taken under "The Imprisonment for Debt Limitation Act, 1908," against any person for failing or refusing to pay any penalty or other sum of money due by him under this Act.

Penalties may be recovered in Court of Arbitration.

21. (1.) Notwithstanding anything hereinbefore contained, any action for the recovery of a penalty under this Act may be brought by an Inspector of Awards in the Court of Arbitration instead of in a Magistrate's Court.

(2.) The decision of the Court of Arbitration in any such action shall be final.

Procedure.

(3.) The procedure in actions so brought in the Court of Arbitration shall be determined by regulations to be made by the Governor in Council in pursuance of this Act.

(4.) The provisions of sections fifteen, sixteen, and seventeen of this Act shall, so far as applicable, extend and apply to any action so brought in the Court of Arbitration, and shall in respect of any such action be read as if every reference in those sections to a Magistrate was a reference to the Court of Arbitration, and as if every reference therein to the Clerk of the Magistrate's Court was a reference to the Registrar of the Court of Arbitration.

(5.) A certificate of the judgment of the Court of Arbitration in any such action, under the hand of the Registrar of that Court, specifying the amount payable under the judgment and the parties thereto,

may be filed in any Magistrate's Court or Magistrates' Courts, and the said judgment shall thereupon be deemed to be a judgment duly recovered in an action for a penalty under this Act in the Court or in each of the Courts in which a certificate has been so filed, and shall be enforceable in all respects accordingly.

Governor may make regulations as to procedure.

22. The Governor may by Order in Council make regulations, consistent with this Act, prescribing the procedure in actions brought under the foregoing provisions of this Act and in appeals to the Court of Arbitration.

Enforcement of certificate of Court of Arbitration.

23. When an order for the payment of money is made by the Court of Arbitration, and no other provisions for the enforcement of that order are contained in this Act or in the principal Act, a certificate under the hand of the Registrar of the said Court, specifying the amount payable and the persons by and to whom it is payable, may be filed in any Magistrate's Court, and shall thereupon be enforceable in the like manner as a judgment given by the last-mentioned Court in an action for the recovery of a debt.

In default of industrial union or association, amount of judgment may be recovered from members thereof.

24. If in any action judgment is given under the foregoing provisions of this Act, whether by a Magistrate's Court or by the Court of Arbitration, against an industrial union or industrial association, and is not fully satisfied within one month thereafter, all persons who were members of the said industrial union or industrial association at the time when the offence was committed in respect of which the judgment was given shall be jointly and severally liable on the judgment in the same manner as if it had been obtained against them personally, and all proceedings in execution or otherwise in pursuance of the judgment may be taken against them or any of them accordingly, save that no person shall be liable under this section for a larger sum than five pounds.

Unsatisfied judgment not to be a bar to action at suit of another plaintiff.

25. Judgment recovered at the suit of any person for a penalty under this Act shall not, until and unless it is fully satisfied, be a bar to any other action at the suit of any other plaintiff for the recovery of the same penalty.

Actions to be brought within six months.

26. No action shall be commenced for the recovery of any penalty under this Act save within six months after the cause of action has arisen.

## PART III.

## CONCILIATION.

No further reference of disputes to Conciliation Boards.

27. (1.) After the commencement of this Act no industrial dispute shall be referred to any Board of Conciliation under the principal Act.

(2.) In the case of an industrial dispute which at the commencement of this Act has already been referred to a Board of Conciliation, further proceedings for the settlement of that dispute shall be taken in the same manner as if this Act had not been passed.

(3.) After the commencement of this Act no person shall be elected or appointed as a member of a Board of Conciliation; and all persons theretofore so elected or appointed shall retire from office on the expiration of the term for which they were elected or appointed.

In first instance, disputes to be referred to Councils of Conciliation.

28. (1.) After the commencement of this Act no industrial dispute shall be referred to the Court until it has been first referred to a Council of Conciliation in accordance with the provisions hereinafter contained.

(2.) Every party to a dispute so referred to a Council of Conciliation shall be either an industrial union, an industrial association, or an employer.

Appointment of Conciliation Commissioners.

29. (1.) The Governor may from time to time appoint such persons as he thinks fit (not exceeding four in number) as Conciliation Commissioners (hereinafter referred to as "Commissioners") to exercise the powers and jurisdiction hereinafter set forth.

(2.) Every Commissioner shall be appointed for a period of three years, but may be reappointed from time to time, and may at any time be removed from office by the Governor.

(3.) Every Commissioner shall exercise his jurisdiction within such industrial district or districts as may be from time to time assigned to him by the Governor by Order in Council.

(4.) Every Commissioner shall receive such salary or other remuneration as is from time to time appropriated by Parliament for that purpose.

(5.) If on or before the expiry of the term of office of any Commissioner he is reappointed to that office, all proceedings pending before him or before any Council of Conciliation of which he is a member may be continued and completed as if he had held office continuously.

(6.) If from any cause any Commissioner is unable to act, the Governor may appoint some other person to act in his stead during the continuance of such inability, and while so acting the person so appointed shall have all the powers and jurisdiction of the Commissioner in whose stead he is acting.

(7.) If any Commissioner dies or resigns his office, or is removed from office, or if his term of office expires without reappointment, all proceedings then pending before him or before any Council of Conciliation of which he is a member may be continued before his successor or before the said Council, as the case may be, and for this purpose his successor shall be deemed to be a member of that Council, and all the powers and jurisdiction vested in the first-mentioned Commissioner as a member of that Council shall vest in his successor accordingly.

(8.) Where in any case no Commissioner is immediately available to deal with any dispute which has arisen, the Governor may appoint some person to act as a Commissioner for the purpose of dealing with such dispute, and while so acting the person so appointed shall have all the powers and jurisdiction of a Commissioner, and any Commissioner so appointed shall be paid such fees as may be fixed by regulation.

(9.) No appointment made in pursuance or intended pursuance of subsection five or subsection seven of this section shall in any Court or in any proceedings be questioned or invalidated on the ground that due occasion for the appointment has not arisen or has ceased.

Industrial union, &c., may apply to have dispute referred to Council of Conciliation.

30. (1.) Any industrial union, industrial association, or employer, being a party to an industrial dispute, may make application in the prescribed form to the Commissioner exercising jurisdiction within the industrial district in which the dispute has arisen that the dispute may be heard by a Council of Conciliation.

(2.) No such application shall be made by an industrial union or industrial association unless the proposed application has been approved by the members in manner provided by section one hundred and seven of the principal Act.

(3.) Two or more industrial unions, industrial associations, or employers may join in making a joint application in respect of the same dispute.

(4.) Every application made under this section shall state—

(a.) The name of the union, association, or employer making the application (hereinafter, together with any other unions, associations, or employers subsequently joined as applicants, termed “the applicants”):

(b.) The name of all industrial unions, industrial associations, and employers whom the applicants desire to be made parties to the proceedings (hereinafter, together with any other unions, associations, or employers subsequently joined as respondents, termed “the respondents”):

(c.) A general statement of the nature of the dispute:

(d.) A detailed statement of the claims made by the applicants against the respondents in the matter of the dispute :

(e.) The proposed number of persons (being either one, two, or three) whom the applicants desire to be appointed on the recommendation of the applicants as assessors to sit with the Commissioner in the hearing and settlement of the dispute :

(f.) The names of the persons so recommended by the applicants.

(5.) Every person so recommended as an assessor must be or have been actually and *bona fide* engaged or employed either as an employer or as a worker in the industry, or in any one of the industries, in respect of which the dispute has arisen (whether in the same or in another industrial district) :

Provided that if in any case, by reason of the special circumstances of that case, the Commissioner is of opinion that it is impracticable or inexpedient that all the assessors should be persons so qualified, he may appoint as one of their assessors, on the recommendation of the applicants, a person who is not so qualified.

(6.) Any person so recommended as an assessor may be one of the parties to the dispute, or may be a member of an industrial union or industrial association which is a party to the dispute.

(7.) If the Commissioner to whom the application is made is of opinion that any person so recommended is not duly qualified in accordance with this Act, he shall reject the recommendation, and the applicants shall then recommend some other qualified person in his place. The provisions of subsection two of this section shall not apply to any such substituted recommendation. The decision of the Commissioner as to the qualification of any person recommended as an assessor shall be final.

(8.) If and as soon as the Commissioner is satisfied that the proposed number of qualified persons have been so recommended by the applicants, he shall by writing under his hand appoint those persons as assessors for the purpose of the said application.

Commissioner to appoint date for hearing dispute, and to cite respondents to attend.

31. So soon as assessors have been nominated in manner aforesaid the Commissioner shall appoint a day and place for the hearing of the dispute, and shall in the prescribed form and manner cite the respondents to attend at the hearing thereof, and in the meantime to recommend qualified persons for appointment as assessors at the said hearing, equal in number to the number so appointed on the recommendation of the applicants.

Qualification and appointment of assessors on behalf of respondents.

32. (1.) The foregoing provisions as to the qualification of assessors recommended by the applicants shall also apply to assessors recommended by the respondents.



(2.) If the Commissioner is of opinion that any person so recommended by the respondents is not duly qualified in accordance with this Act he shall reject the recommendation, and shall require the respondents to recommend some other qualified person, and so also in the case of any such subsequent recommendation, and the decision of the Commissioner as to the qualification of any person so recommended shall be final.

(3.) If and as soon as the Commissioner is satisfied that qualified persons to the required number have been recommended by the respondents, he shall by writing under his hand appoint those persons as assessors for the purposes of the application.

(4.) Unless the respondents recommend the required number of qualified persons as assessors at least one clear day before the day appointed for the hearing of the dispute, the Commissioner shall forthwith appoint on behalf of the respondents such number of qualified persons as is necessary to supply the full number of assessors required.

(5.) The recommendation of assessors by the respondents shall be in writing, signed by or on behalf of the respondents. If they cannot agree in the recommendation of assessors, separate recommendations may be made by the several respondents, and in that case the Commissioner may appoint as assessors such of the qualified persons so recommended as he thinks fit.

Commissioner and assessors to constitute Council of Conciliation.

33. (1.) On the appointment of assessors in accordance with the foregoing provisions, the Commissioner together with the said assessors shall be and constitute a Council of Conciliation (hereinafter referred to as the Council), having the powers and functions hereinafter provided.

(2.) The assessors shall be entitled to receive out of the Consolidated Fund such fees as are prescribed by regulations.

(3.) The validity or regularity of the appointment of any assessor by a Commissioner shall not be questioned in any Court or in any proceedings.

Appointment of assessor to fill vacancy in Council.

34. (1.) If at any time before the Council has completely exercised the powers vested in it by this Act any assessor dies, or resigns his office, or is proved to the satisfaction of the Commissioner to be unable by reason of sickness or any other cause to act as assessor, the Commissioner may, on the recommendation of the applicants or respondents, as the case may be, appoint some other qualified person as an assessor in lieu of the assessor so dying or resigning his office or becoming unable to act.

(2.) If the applicants or respondents, as the case may be, cannot agree on any such recommendation, they may make separate recom-

mendations, and the Commissioner may thereupon appoint as an assessor such one of the qualified persons so recommended as he thinks fit.

(3.) The powers and functions of the Council shall not be affected by any such vacancy in the number of assessors, and during any such vacancy the Council may, so far as it thinks fit so to do, exercise all its powers and functions in the same manner as if it were fully constituted.

Powers and duties of Council with respect to dispute.

35. (1.) It shall be the duty of the Council to endeavour to bring about a settlement of the dispute, and to this end the Council shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits and the right settlement thereof.

(2.) In the course of the inquiry the Council shall make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute.

(3.) The procedure of the Council shall in all respects be absolutely in the discretion of the Council, and the Council shall not be bound to proceed with the inquiry in any formal manner, or formally to sit as a tribunal, or to hear any addresses or evidence save such as the Council deems necessary or desirable.

(4.) The Council may on the inquiry hear any evidence that it thinks fit, whether such evidence would be legally admissible in a Court of law or not.

(5.) The inquiry shall be either public or private, as the Council thinks fit.

(6.) Meetings of the Council shall be held from time to time at such times and at such places within the industrial district in which the dispute has arisen as the Commissioner appoints.

(7.) No such meeting shall be duly constituted unless the Commissioner is present thereat, but the absence of any of the assessors shall not prevent the exercise by the Council of any of its powers or functions.

(8.) In all matters other than the making of a recommendation for the settlement of a dispute the decision of a majority of the assessors present at a meeting of the Council shall be deemed to be the decision of the Council, but if the assessors present are equally divided in opinion the Commissioner shall have a casting-vote, and the decision of the Council shall be determined accordingly.

(9.) A record of the proceedings of every Council of Conciliation shall be made and preserved in manner prescribed by regulations, or, in default of such regulations, in such manner as the Commissioner thinks fit.

(10.) The Commissioner shall have the same power of summoning witnesses and of taking evidence on oath, and of requiring the

production of books and papers, as if the inquiry were the hearing of a complaint heard before a Justice of the Peace under "The Justices of the Peace Act, 1908," and all evidence given on oath before the Council shall for all purposes be deemed to have been given in a judicial proceeding before a Court of competent jurisdiction.

(11.) No person shall be bound at any inquiry before the Council to give evidence with regard to trade secrets, profits, losses, receipts, or outgoings in his business, or with respect to his financial position, or to produce the books kept by him in connection with his business.

(12.) If any person desires to give any such evidence as is mentioned in the last preceding subsection, or to produce any such books as aforesaid, he may, if the Commissioner thinks fit, do so in the presence of the Commissioner alone sitting without the assessors; and in such case the Commissioner shall not disclose to the assessor, or to any other person, the particulars of the evidence so given or of the books so produced, but may inform the assessors whether or not, in his opinion, any claim or allegation made by the applicants or respondents in the inquiry is substantiated by the said evidence or the said books.

Parties to dispute may appear before Council.

36. (1.) An employer being a party to the dispute may appear before the Council in person, or by his agent duly appointed in writing in that behalf.

(2.) An industrial union or industrial association being a party to a dispute may appear before the Council by its chairman or secretary, or by any number of persons (not exceeding three) appointed in writing by the chairman, or appointed in such other manner as its rules prescribe.

(3.) No barrister or solicitor, whether acting under a power of attorney or otherwise, shall be allowed to appear or be heard before the Council.

Council may proceed with inquiry notwithstanding absence of applicants or respondents.

37. If any or all of the applicants or respondents fail or refuse to attend or to be represented at the inquiry, the Council may nevertheless proceed with the inquiry in the same manner so far as practicable as if all the said parties were present or represented.

Commissioner may join or strike out parties as applicants or respondents.

38. The Commissioner may at any time before or during the inquiry make an order joining any industrial union, industrial association, or employer as an applicant or respondent, or striking out the name of any industrial union, industrial association, or employer as an applicant or respondent.

Terms of settlement to form industrial agreement.

39. If a settlement of the dispute is arrived at by the parties in the course of the inquiry, the terms of the settlement shall be set forth as an industrial agreement, which shall be duly executed by the parties or their attorneys, and all the provisions of the principal Act and of this Act with respect to industrial agreements shall apply to any such agreement accordingly.

Provisional arrangement where no settlement arrived at.

40. If no settlement of the dispute is arrived at by the parties in the course of the inquiry, the Council shall endeavour to induce the parties to agree to some temporary and provisional arrangement until the dispute can be determined by the Court of Arbitration.

Commissioner may take steps to secure a voluntary settlement of disputes.

41. The Commissioner may at any time, if he thinks fit, after application has been made to him under section thirty of this Act, and whether assessors have been appointed or not, take such steps as he deems advisable, whether by way of a conference between the applicants and respondents or otherwise, with intent to procure a voluntary settlement of the dispute.

Council to notify Clerk of Awards if settlement of dispute not arrived at.

42. (1.) Not earlier than one month or later than two months after the date fixed in pursuance of section thirty hereof for the hearing of the dispute, the Council shall, unless a settlement of the dispute has been sooner arrived at by the parties and embodied in an industrial agreement duly executed in manner aforesaid, deliver to the Clerk of Awards for the industrial district in which the dispute has arisen a notification under the hand of the Commissioner that no settlement of the dispute has been arrived at.

(2.) The notification shall be accompanied by a copy of the application made to the Council by the applicants, together with a record of the proceedings of the Council, every such copy and record being under the hand of the Commissioner.

Council may, prior to notification aforesaid, make recommendation for settlement of dispute.

43. (1.) Before delivering any such notification to the Clerk of Awards the Council may make such recommendation for the settlement of the dispute according to the merits and substantial justice of the case as the Council thinks fit, and may state in the recommendation whether, in the opinion of the Council, the failure of the parties to arrive at a settlement was due to the unreasonableness or unfairness of any of the parties to the dispute.

(2.) No such recommendation shall be made unless it is unanimously agreed to by all the assessors, and the Commissioner shall have no vote in respect of the making or nature of any such recommendation.

(3.) The recommendation of the Council shall be signed by all the assessors, and shall be delivered to the Clerk of Awards under the hand of the Commissioner, together with the notification.

(4.) The recommendation of the Council shall be published by the Clerk of Awards in such manner as may be prescribed.

(5.) The recommendation of the Council shall in no case have any binding force or effect, but shall operate merely as a suggestion for the amicable settlement of the dispute by mutual agreement, and as a public announcement of the opinion of the Council as to the merits of the dispute.

Council may deliver to Clerk of Awards memorandum of partial settlement.

44. (1.) If before the delivery of the notification of the Council to the Clerk of Awards as aforesaid a partial settlement of the dispute is arrived at by all the parties thereto, the terms of that partial settlement may be reduced to writing, executed by all the parties thereto or their attorneys or representatives; and such writing (hereinafter termed a memorandum of partial settlement) shall be delivered by the Council to the Clerk of Awards, together with the notification aforesaid and the recommendation (if any) made by the Council.

(2.) No such memorandum of partial settlement shall in itself have any binding force or effect, but the Court of Arbitration may, if it thinks fit, in making its award in accordance with the provisions hereinafter contained in that behalf, incorporate in the award the terms of the said memorandum, or any of those terms, without making inquiry into the matters to which those terms relate.

Council may state case for Court of Arbitration.

45. The Council may at any time state a case for the advice or opinion of the Court of Arbitration.

Clerk of Awards to refer dispute to Court of Arbitration.

46. When the notification of the Council has been delivered to the Clerk of Awards in manner aforesaid, he shall forthwith refer the dispute to the Court of Arbitration for settlement, and thereupon the dispute shall be deemed to be before the Court.

Powers of Court with respect to dispute.

47. (1.) When an industrial dispute has been referred to the Court in pursuance of this Act the Court shall have the same jurisdiction in the matter of that dispute as if the same had been referred to the Court by the applicants in pursuance of the principal Act after a reference to a Board of Conciliation, and all the provisions of the principal Act shall, so far as applicable, apply accordingly.

(2.) Subject to the provisions of the principal Act as to the joinder or striking-out of parties, the parties to the proceedings before the Court shall be the same as in the proceedings before the Council.

#### Repeal.

48. Sections fifty-one and fifty-two of the principal Act are hereby repealed.

#### Regulations.

49. The Governor may from time to time, by Order in Council, make such regulations as he deems necessary for carrying this Part of this Act into effect.

Certain provisions of principal Act as to Boards of Conciliation to apply to Councils of Conciliation.

50. (1.) The following sections of the principal Act (referring to Boards of Conciliation) shall extend and apply to Councils of Conciliation under this Act—namely, sections one hundred and eight, one hundred and fourteen, one hundred and fifteen, and one hundred and twenty.

(2.) In those sections every reference to a Board shall be read as a reference to a Council of Conciliation.

(3.) For the purposes of those sections a dispute shall be deemed to have been referred to a Council of Conciliation so soon as the Council is fully constituted in accordance with this Act.

## PART IV.

### MISCELLANEOUS.

Section 2 of principal Act amended.

51. Section two of the principal Act is hereby amended by omitting from the definition of "worker" the words "skilled or unskilled, manual or clerical."

Definition of "industrial matters" amended.

52. Section two of the principal Act is hereby amended by omitting the words "employers of workers" in the definition of "industrial matters," and substituting the words "employers or workers."

Section 5 of principal Act amended.

53. Section five of the principal Act is hereby amended by omitting the word "two" where it first occurs in that section, and substituting the word "three"; and by omitting the word "seven" where it first occurs in that section, and substituting the word "fifteen."

Section 23 of principal Act amended.

54. Section twenty-three of the principal Act is hereby amended by omitting the words "of the one industry."

Section 66 of principal Act amended.

55. Section sixty-six of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph :—

“(aa.) In so appointing the members and acting members of the Court on the recommendation of the industrial unions, the Governor shall take into account the voting-power of each such union, as determined in manner following, that is to say :—

“(i.) Every union having not more than fifty members shall be deemed to have one vote :

“(ii.) Every union having more than fifty members shall be deemed to have one vote for every complete fifty of its members. For the purpose of so estimating the voting-power of a union, the number of its members shall be deemed to be the number specified in the last annual list forwarded by the union to the Registrar, in pursuance of section seventeen hereof.”

Section 92 of principal Act amended.

56. Section ninety-two of the principal Act is hereby amended by inserting in subsection one thereof the following paragraph :—

“(aa.) Power to amend the provisions of any award made before the commencement of this Act in the flax industry, where such amendment is deemed necessary or advisable by reason of any alteration in the profits of that industry :

“Provided that no such amendment shall be made unless the Court is first satisfied that a substantial number of the workers and employers engaged in that industry are desirous that the award should be reviewed by the Court.”

Section 97 of principal Act amended.

57. Section ninety-seven of the principal Act is hereby amended by omitting therefrom all words after the words “breach of the award.”

Section 100 of principal Act amended.

58. Section one hundred of the principal Act is hereby amended by omitting the words “section seven” in subsection three, and substituting therefor the words “sections seven and eight”; and by inserting the following subsections :—

“(5.) A wages and overtime book shall be kept by every employer bound by an award or industrial agreement, and every such employer who fails to keep such book, or wilfully makes any false entry therein, is liable to a fine not exceeding fifty pounds.

“(6.) All fines under this section shall be recoverable summarily before a Magistrate in accordance with “The Justices of the Peace Act, 1908.”

Judge of Arbitration Court may state case for Court of Appeal.

59. (1.) The Judge of the Arbitration Court may in any matter before the Court state a case for the opinion of the Court of Appeal on any question of law arising in the matter.

Repeal.

(2.) This section is in substitution for section one hundred and six of the principal Act, which section is hereby repealed accordingly.

Penalty for dismissal of workers for certain reasons.

60. (1.) Every employer who dismisses from his employment any worker by reason merely of the fact that the worker is an officer or a member of an industrial union, or merely because such worker has acted as an assessor on a Council of Conciliation or has represented his union in any negotiations or conference between employers and workers or merely because such worker is entitled to the benefit of an award, order, or agreement, is liable to a penalty not exceeding twenty-five pounds, to be recovered at the suit of an Inspector of Awards in the same manner as a penalty for the breach of an award.

(2.) A worker shall be deemed to be dismissed within the meaning of this section if he is suspended for a longer period than ten days.

(3.) In every case where the worker dismissed was immediately preceding his dismissal a president, vice-president, secretary, or treasurer of an industrial union, or an assessor for a Council of Conciliation, or represented his union in any negotiations or conference between employers and workers, it shall lie on the employer to prove that such worker was dismissed for a reason other than that he has acted in any of the said capacities.

Repeal.

(4.) This section is in substitution for section one hundred and nine of the principal Act, which section is hereby accordingly repealed.

Recovery by worker of difference between wages paid and wages fixed by award.

61. When any payment of wages has been made to and accepted by a worker at a less rate than that which is fixed by any award or industrial agreement, no action shall be brought by the worker against his employer to recover the difference between the wages so actually paid and the wages legally payable, save within three months after the day on which the wages claimed in the action became due and payable.

Certificate of Labour Department to be proof of age of young workers.

62. Where by any award or industrial agreement the age at which young persons may be employed is limited, or the wages payable to young persons of certain ages are fixed, then, in so far as the employer is concerned, it shall be sufficient proof of the age of any young person desiring employment if he produces to the employer a certificate of



age granted by an official of the Labour Department; and in any proceedings against an employer who has acted in reliance on any such certificate for a breach of the award or industrial agreement, the certificate shall be conclusive proof of the age of the young person so employed.

Copy of award to be conspicuously placed in factory or shop affected thereby.

63. (1.) In the case of any factory or shop to which any award or industrial agreement relates, a printed or typewritten copy of the award or industrial agreement shall at all times be kept affixed in some conspicuous place at or near the entrance of the factory or shop, in such a position as to be easily read by the persons employed therein.

(2.) For any breach of the provisions of this section the occupier of the said factory or shop shall be liable to a fine not exceeding five pounds on summary conviction on the information of an Inspector of Awards.

(3.) In this section the terms "factory" and "shop" have the same meanings as in "The Factories Act, 1908," and "The Shops and Offices Act, 1908," respectively.

Repeal.

64. The proviso to subsection two of section ninety of the principal Act is hereby repealed.

Permits for under-rate workers.

65. Where in any award or industrial agreement made before the commencement of this Act provision is made for the issue by the Chairman of a Board of Conciliation, or in any other manner which is rendered impracticable by the provisions of this Act, of permits to workers to accept a wage below that prescribed for ordinary workers, all such permits may be granted by an Inspector of Awards in manner provided by section one hundred and twenty-three of the principal Act.

Section 123 of principal Act amended.

66. Section one hundred and twenty-three of the principal Act is hereby amended by adding thereto the following paragraphs:—

"(c.) No such permit shall be granted to any person who is not usually employed in the industry to which the award applies.

"(f.) A permit shall be valid only for the period for which it is granted."

Extension of application of industrial agreement on application by party thereto.

67. Whenever it is proved to the Court that an industrial agreement (whether made before or after the commencement of this Act) is binding on employers who employ a majority of the workers in the industry to which it relates in the industrial district in which it was

made, the Court may, if it thinks fit, on the application of any party to that agreement or of any person bound thereby, make an order extending the operation of that agreement to all employers who are or who at any time after the making of the said order become engaged in the said industry in the said district, and all such employers shall thereupon be deemed to be parties to the said agreement, and shall be bound thereby so long as it remains in force.

Validation of informal proceedings, &c.

68. (1.) If anything which is required or authorised to be done by the principal Act or by this Act is not done within the time limited for the doing thereof, or is done informally, the Court of Arbitration may, if it thinks fit in its discretion, on the application of any person interested, make an order extending the time within which the thing may be done, or validating the thing so informally done.

(2.) Nothing in this section shall apply so as to authorise the Court of Arbitration to make any such order in respect of judicial proceedings theretofore already instituted in any Court other than the Court of Arbitration.

Awards to prevail over contracts of service in cases of conflict.

69. Every award or industrial agreement shall prevail over any contract of service or apprenticeship in force on the coming into operation of the award or industrial agreement, so far as there is any inconsistency between the award or industrial agreement and the contract; and the contract shall thereafter be construed and have effect as if the same had been modified, so far as necessary, in order to conform to the award or industrial agreement.

Court may fix date of award.

70. In making its award the Court may, if in its discretion it thinks fit, direct that any provision of the award relating to the rate of wages to be paid shall have effect as from such date prior to the date of the award as the Court thinks fit.

Awards and industrial agreements to apply only to workers employed for pecuniary gain.

71. No award or industrial agreement made after the commencement of this Act shall affect the employment of any worker who is employed otherwise than for the direct or indirect pecuniary gain of the employer:

Provided that this section shall not be deemed to exempt any local authority or body corporate from the operation of any award or industrial agreement.

Court may refuse to make award.

72. When an industrial dispute has been referred to the Court, the Court may, if it considers that for any reason an award ought not to be made in the matter of that dispute, refuse to make an award therein.

Cancellation of registration of industrial unions.

73. (1.) Notwithstanding anything in section twenty-one of the principal Act, the cancellation under that section of the registration of an industrial union shall not be prevented by the pendency of any conciliation or arbitration proceedings, if the application for cancellation has been made to the Registrar before the commencement of the said proceedings.

(2.) The said section and this section shall extend and apply to conciliation proceedings before a Council of Conciliation under this Act.

(3.) For the purposes of this section conciliation proceedings before a Council of Conciliation shall be deemed to have commenced so soon as the Commissioner has appointed assessors on the recommendation of the applicants, and shall be deemed to have ceased so soon as the notification of the Council has been delivered to the Clerk of Awards, or the dispute has been settled by an industrial agreement.

(4.) For the purposes of the said section and this section arbitration proceedings shall be deemed to be pending and in progress so soon as the notification of the Council has been delivered to the Clerk of Awards.

Award not to be affected by subsequent legislation unless contrary intention is expressed.

74. (1.) The provisions of an award or industrial agreement shall continue in force until the expiration of the period for which it was made, notwithstanding that before such expiration any provision inconsistent with the award or industrial agreement is made by any Act passed after the commencement of this Act, unless in that Act the contrary is expressly provided.

(2.) On the expiration of the said period the award or industrial agreement shall, during its further subsistence, be deemed to be modified in accordance with the law then in force.

---

## THE INSPECTION OF MACHINERY ACT, 1908.

1908, No. 88.

---

AN ACT to consolidate certain Enactments of the General Assembly relating to the Inspection of Machinery.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. (1.) The Short Title of this Act is “ The Inspection of Machinery Act, 1908.”

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All districts, offices, appointments, Proclamations, Orders in Council, regulations, orders, notifications, certificates, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Interpretation.

2. In this Act, if not inconsistent with the context,—

- “ Boiler ” means any boiler or vessel in which or by means of which steam is used or applied to any manufacturing or other process, or in which or by means of which steam is generated for working machinery ; and includes a digester :
- “ Building ” means any manufactory, mill, shop, shed, or other place or building in which any machinery is erected, or where the same is kept, used, worked, or in operation :
- “ District ” means any district proclaimed under this Act :
- “ Inspector ” means any person appointed to be an Inspector of Machinery under this Act, acting within the district for which he is appointed :
- “ Machinery ” means and includes every shaft, whether upright, oblique, or horizontal, and every drum, wheel, strap, band, or pulley by which the motion of the first moving power is communicated to any machinery ; and every machine, gearing, contrivance, or appliance worked by steam or water power, or by electricity, gas, gaseous products, or compressed air, or in any other manner, other than by hand, by which motive power may be obtained of such kinds as are from time to time declared to be subject to the provisions of this Act :
- “ Minister ” means the Minister for the time being having charge of the Inspection of Machinery Department :
- “ Owner ” means and includes as well the owner of any boiler or machinery as also the mortgagee or lessee thereof, and

any engineer, overseer, foreman, agent, or person in charge or having the control or management of any such boiler or machinery :

“ Premises ” means and includes any yard, place, house, or buildings, and any farm, paddock, field, road, or place, in which any machinery is kept, worked, used, or is in operation :

“ Prescribed ” means prescribed by this Act or by regulations made thereunder.

### *Administration.*

#### *Districts.*

3. The Governor may by Proclamation from time to time divide New Zealand into districts, with such boundaries as he thinks convenient, and may assign to any such district a name by which it shall be known for the purposes of this Act ; and may in like manner from time to time alter the boundaries of districts.

#### *Chief Inspector and Inspectors.*

4. (1.) The Minister may from time to time appoint some duly qualified person to be Chief Inspector of Machinery, and for each district one or more duly qualified persons to be Inspectors of Machinery.

(2.) Any person may be appointed Inspector for two or more districts if the Minister thinks fit.

#### *Inspector's certificate of appointment.*

5. Every Inspector shall be furnished with a certificate in writing, under the hand of the Minister, of his appointment for the district named therein ; and on his entering upon any place or premises, or into any building, for any of the purposes of this Act he shall, if required, produce the said certificate to the owner.

#### *False certificate.*

6. Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or who falsely pretends to be an Inspector under this Act, commits an offence, and is liable to imprisonment, with or without hard labour, for any period not exceeding three months.

#### *Powers and duties of Chief Inspector.*

7. The Chief Inspector shall within every district have all the powers of an Inspector in such district, and he may exercise such powers alone or in conjunction with any Inspector.

#### *Inspector to keep minutes, and report to Chief Inspector.*

8. Every Inspector shall keep full minutes of all his proceedings, and shall from time to time report the same to the Chief Inspector, with such particulars and information as the Chief Inspector requires,

## Powers and duties of Inspectors.

9. (1.) An Inspector may enter into any building or premises within his district wherein there is placed or erected any machinery, whether the same is declared to be subject to this Act or not, or into or upon any premises where such machinery is in use or working or is kept, and may then and there inspect and examine such machinery and the appliances connected therewith or belonging thereto, in order to ascertain whether the provisions of this Act have been complied with.

(2.) Such entry may be made at any time either by day or by night, and whether such machinery is in operation or working or not.

(3.) In making such inspection the Inspector may call to his aid any constable, or any person he may think competent to assist therein, and may require the owner of the machinery to explain the working thereof, and may examine him as to the compliance with this Act in any particulars.

(4.) If any person wilfully impedes the Inspector in the execution of any part of his duty under this Act, or if the owner of any such machinery refuses to give such explanation or information as aforesaid, every such person, and all persons aiding or assisting therein, shall be liable to a fine not exceeding twenty pounds and not less than five pounds.

*Machinery subject to Act.*

## Machinery to which Act applies.

10. (1.) The several kinds and descriptions of machinery and articles mentioned in the Second Schedule hereto shall be deemed to be machinery for the purposes of this Act.

(2.) The Governor may, by Order in Council gazetted, from time to time declare that any other kinds of machinery shall be subject to the provisions of this Act; and in any such case, and from and after a date to be fixed by such Order in Council, the machinery therein mentioned shall be so subject.

(3.) He may in like manner from time to time declare that any kinds of machinery shall cease to be machinery subject to this Act.

## Persons having machinery subject to Act to notify Inspector.

11. (1.) Every person who becomes the owner of any machinery subject to the provisions of this Act shall, within one month thereafter, send to the Inspector of the district where the same is, or in which it is intended to use, keep, or work the same, a notice stating the name of such owner, the place or town where such machinery is erected, kept, or intended to be used, the nature and kind of machinery, and the nature and amount of the motive power.

(2.) Where any machinery is declared subject to the provisions of this Act, the owner thereof shall, within one month from the date

of the coming into operation of the Order in Council rendering such machinery subject to this Act, give notice to the Inspector in like manner as hereinbefore provided.

(3.) Every person who fails to give any such notice is liable to a fine not exceeding ten pounds.

### *Employment of Young Persons.*

Young persons not to be employed in certain cases.

12. (1.) A young person under fourteen years of age shall not be employed in working or assisting to work at or with any machinery.

(2.) A young person under the age of fifteen years shall not be allowed to clean any part of the gearing of any machinery while the same is in motion, nor to work between the fixed and traversing part of any self-acting machine while the latter is in motion by the action of the steam-engine, water-wheel, or other mechanical power.

(3.) No boiler or machinery shall at any time be left in charge or control of any person unless he is a male of at least eighteen years of age.

(4.) In case of a breach of any of the provisions of this section the owner of the machinery shall be liable to a fine not exceeding twenty pounds and not less than five pounds.

### *Fencing of Machinery.*

Certain machinery to be fenced.

13. (1.) Every fly-wheel directly connected with the steam-engine or the water-wheel or other mechanical power, whether in the engine-house or not, every part of a steam-engine and water-wheel, and every hydraulic or other lift near to which any person is liable to pass or be employed, shall be securely fenced, and every wheel-race not otherwise secured shall be fenced close to the edge of the wheel-race, and the said protection to each part shall not be removed while the parts required to be fenced are in motion by the action of the steam-engine, water-wheel, or other mechanical power.

(2.) This section applies to machinery of every kind, whether declared to be subject to the provisions of this Act or not.

(3.) In case of a breach of any of the provisions of this section the owner shall be liable to a fine not exceeding twenty pounds, unless it appears to the satisfaction of the Justices before whom any complaint on the prosecution for such penalty is heard that it was impossible to fence the several parts of machinery or mechanical powers therein mentioned.

Notice of machinery requiring fencing.

14. (1.) Where an Inspector is of opinion that any machinery subject to this Act, or that any driving strap or band which he deems likely to cause bodily injury to any person engaged in the working thereof, is not securely fenced or otherwise sufficiently guarded, he

shall give notice to the owner, specifying the part of the machinery he considers dangerous, according to the form numbered (1) in the Third Schedule hereto, or to the effect thereof; and the owner shall sign a duplicate copy of such notice in acknowledgment of his having received it.

(2.) If the owner does not, within a period of ten days from the service of such notice upon him comply with the terms thereof he is liable to a fine not exceeding fifty pounds and not less than ten pounds.

### *Defective Machinery.*

Faulty or defective machinery.

15. (1.) Where any machinery subject to the provisions of this Act, or any appliance or contrivance connected or used with such machinery, or any part thereof, is or appears to an Inspector to be faulty or defective in any particular, or so dangerous as to be likely to cause loss of life or bodily injury to any person, he may give to the owner of such machinery a notice to that effect, and such notice may either require the owner—

(a.) To wholly desist from working or using such machinery, or any appliance or contrivance used or connected therewith, from a period to be fixed in such notice, until certain repairs or alterations to be stated in the notice have been effected; or

(b.) To have the arrangement of such machinery, appliance, or contrivance so altered, or the faulty or defective part thereof placed or repaired, within a certain time to be stated in such notice, so as not to contravene this Act.

(2.) Every person to or upon whom such notice has been served or delivered who fails to comply with the terms thereof is liable to a fine not exceeding one hundred pounds and not less than twenty pounds, in addition to any criminal or civil liability he may otherwise incur.

### *Provisions affecting Boilers.*

Certain provisions of the Act applied to boilers.

16. All the powers of entry and inspection and other powers and authorities conferred upon Inspectors, and all other powers, rights, duties, and authorities conferred upon or given to any person or persons, and all penalties imposed on any owner of machinery or other person under the foregoing provisions of this Act, shall, subject to the provisions hereinafter contained, be applicable and may be enforced in carrying into effect the succeeding sections of this Act relating to boilers.

Standards and appliances to be provided.

17. The Chief Inspector shall provide each Inspector with proper standards and appliances by which all pressure-gauges can at any time be compared and tested, and with all other appliances necessary



for carrying into effect the succeeding sections of this Act relating to boilers, and shall from time to time issue to each Inspector such instructions (not inconsistent with this Act or any regulations made hereunder) as he thinks fit.

Record of first inspection.

18. (1.) On the first inspection of a boiler the Inspector shall make and keep a complete record of all particulars necessary to ascertain the state and condition thereof.

(2.) Such record shall contain particulars respecting the nature and construction of the boiler, the name of the maker, the pressure which the boiler is calculated to sustain, the mode of working it, and generally as to the state and condition thereof and of all appliances used in connection therewith, and the fitness thereof for the particular purpose to which it is applied.

Subsequent inspections.

19. (1.) On each subsequent inspection of a boiler the Inspector shall carefully make a comparison with such standards as aforesaid, and shall record any changes since the previous inspection.

(2.) If any change or alteration has been made in such boiler, or any repairs effected therein, he shall duly record the same in such manner as is prescribed by regulations made hereunder.

(3.) If no change, or no material change, has occurred in the state and condition of such boiler, he shall also record the fact in manner aforesaid.

Inspectors' record-books.

20. (1.) Each Inspector shall be supplied with a record-book, to be kept by him in such manner as is prescribed by regulations.

(2.) Such book shall be open to inspection, without charge, by any person, at the office of the Inspector of Machinery for the district, or other convenient place in the district appointed from time to time for that purpose by the Minister ; but no person other than the owner of the particular boiler shall be entitled to an extract or copy of any entry affecting such boiler.

(3.) Every Inspector who fails to keep such record-book in the manner required is liable to a fine not exceeding one hundred pounds and not less than twenty pounds, and, in addition, to forfeit his office.

When boilers to be inspected.

21. All boilers shall be inspected at least once in every year, or oftener, as occasion requires :

Provided that the Governor may, on such conditions and restrictions as he thinks fit, direct that any class of boilers shall be inspected only once in every two years ; but this provision shall not restrict or prohibit inspection if the certificate granted in respect of any boiler of such class is for a less period than two years.

May be inspected at any reasonable time.

22. Inspection of boilers may be made at any time in the day-time at all reasonable hours, and so as not unnecessarily to impede the working or use of any boiler, unless the Inspector sees fit to exercise the powers hereinafter conferred upon him.

Notice to owner of faulty boiler.

23. (1.) If upon inspection it appears to the Inspector that any boiler is unsafe, or that it would be dangerous to life or property if it were to continue to be used in its then state, he may give to the owner a notice in the form numbered (2) in the Third Schedule hereto, requiring him—

- (a.) To wholly desist from working or using the boiler, from a period to be fixed in such notice, until certain repairs or alterations stated in the notice have been effected; or
- (b.) To desist from working or using such boiler, from such a period as aforesaid, at a greater pressure than that stated in such notice, until any repairs or alterations mentioned in such notice have been effected.

(2.) Every person to or upon whom any such notice has been delivered or served as hereinafter provided who fails, during the period specified by the Inspector in such notice, to desist from working such boiler, according to the exigency of the notice, is liable to a fine not exceeding one hundred pounds and not less than twenty pounds.

Owner to notify Inspector of repairs.

24. (1.) Where the owner has effected any repairs to a boiler, or has added to or taken away from a boiler any fittings or appliances, or in any manner altered the construction thereof, he shall forthwith give notice thereof to the Inspector of the district.

(2.) Every person who fails to comply with the provisions of this section is liable to a fine not exceeding twenty pounds.

(3.) This section does not apply to cases where repairs have been effected in accordance with a notice to effect repairs given by any Inspector under the powers hereinbefore contained.

Increasing pressure in boiler.

25. (1.) Every person who by any means knowingly does anything to increase or that tends to increase the pressure in a boiler beyond that stated in the certificate granted by an Inspector and then in force, and every person who aids or abets in increasing the pressure as aforesaid, or procures such pressure to be increased, commits an offence.

(2.) The person in charge of a boiler at the time such increased pressure is discovered, or who, finding the same in a state of increased pressure, allows the same to continue at such increased pressure, shall be deemed *prima facie* to have committed an offence within the meaning of this section.

*Inspectors' reports.*

26. Each Inspector shall, twice at least in every month, prepare and forward to the Chief Inspector a full and true abstract or return of all boilers inspected by him during the preceding fourteen days; and such abstract shall contain all such particulars and be in such form as is from time to time prescribed by regulations under this Act.

*Fees for Inspection.**Fees for inspection.*

27. There shall be paid to each Inspector on behalf of His Majesty, or to such other person as may be prescribed by regulations under this Act, on making an inspection of machinery or of a boiler, or before grant of any certificate as hereinafter provided, such fees (not exceeding those prescribed in the Fourth Schedule hereto) as the Governor from time to time, by warrant duly gazetted, determines.

*Inspector receiving excessive fee.*

28. (1.) No Inspector shall make any charge for any inspection over and above the amount prescribed for the time being in respect of the kind of boiler or machinery for the inspection of which the same respectively is payable.

(2.) Every Inspector who knowingly accepts or charges any fee or receives any sum of money over and above the charges allowed by law is liable to a fine not exceeding fifty pounds, and, in addition, to forfeit his office.

*Certificates of Inspection.**Certificate of inspection.*

29. Where an Inspector has inspected any boiler or machinery, and is satisfied,—

(a.) In the case of a boiler, that the same is in good repair and may be safely used for the purpose for which it is then used : or

(b.) In the case of any other machinery, that the same is securely fenced and guarded, and is also in good repair and may be safely used for the purpose for which it is then used,—

he shall report to the Chief Inspector accordingly, who shall thereupon, and on payment of the prescribed fee, cause to be granted and issued to the owner thereof a certificate in one of the forms numbered (3), (4), and (5) in the Third Schedule hereto.

• Certificate to be exhibited in conspicuous place.

30. (1.) The certificate granted to the owner of any machinery or boiler shall be exhibited in some conspicuous place, to be determined by the Inspector, where it can be seen by all persons working at or with any machinery or boiler; and every owner who neglects so to exhibit such certificate is liable to a fine not exceeding twenty pounds.

(2.) In any proceedings under this section it shall be a sufficient defence if the defendant satisfies the Court—

- (a.) That, owing to the size of the boiler or machinery, the locality where it was working, or other sufficient cause, there was no conspicuous place in which the certificate could reasonably be affixed ; and also
- (b.) That at all reasonable times he kept the certificate available for inspection by all persons working at or with the boiler or machinery, and also by the Inspector and all members of the Police Force.

Duration of certificate of boiler.

31. (1.) The certificate granted to the owner of a boiler shall remain in force for any period the Inspector thinks fit, which period shall be stated on the certificate.

(2.) Such period shall not exceed one year, except in respect of a boiler brought within the provisions of section twenty-one, in which case the certificate may be granted for any period not exceeding two years :

Provided that the Inspector may at any time cancel or suspend any certificate where he deems it necessary in the interests of the public safety so to do.

Of machinery.

32. The certificate granted to the owner of machinery shall remain in force for one year, if during that period no material alteration or addition is made in or to the same, and the machinery is at all times kept securely fenced and guarded and in good repair, and fit to be safely used for the purpose for which it is used :

Provided that in the case of machinery used solely for threshing, chaff-cutting, or crushing grain, and not worked for more than six months in any one year, the certificate shall remain in force for two years.

Working without a certificate.

33. (1.) Every owner who works or uses a boiler or machinery in respect of which a certificate has not been issued, or for which a certificate is not in force, is liable to a fine not exceeding one hundred pounds.

(2.) Proceedings for a breach of this section shall not be commenced or prosecuted except by an Inspector or a person holding the written consent of an Inspector first obtained.

*Duties and Liabilities of Owners of Boilers and Machinery.*

Notice of sale, &c., of boiler or machinery.

34. (1.) Where a person sells or absolutely disposes of a boiler or machinery to any person, the seller shall forthwith give notice to the Inspector, stating the name, occupation, and abode of the person to whom such sale or disposition has been made.

(2.) Where a boiler or machinery is let on hire, or for a certain term, or to be returned to the owner, a similar notice shall in every such case be given to the Inspector by the lessor or owner in manner aforesaid.

(3.) If default is made in giving any such notice the person offending is liable to a fine not exceeding ten pounds.

Liability of owner in first instance.

35. (1.) The owner of a boiler or machinery in respect of which an offence has been committed against this Act, and for which a fine may be imposed, shall in every case (save as hereinafter provided) be deemed in the first instance to have committed the offence and be liable to pay the fine; but an owner who has been proceeded against by an Inspector is entitled, upon complaint or information duly made by such owner, to have any agent, servant, or workman brought before the Court at the time appointed for hearing the complaint made against him by the Inspector.

(2.) If, after the commission of the offence has been proved, the owner proves to the satisfaction of the Court that he had used due diligence to enforce the execution of this Act, and that the said agent, servant, or workman had committed the act in question without his knowledge, consent, or connivance, the said agent, servant, or workman shall be convicted of the offence and shall pay the fine instead of the owner.

Proceedings against actual offender.

36. Where it appears to an Inspector at the time of discovering the offence that the owner had used all due diligence to enforce the execution of this Act, and also by what person the offence was committed, and that it had been committed without the personal knowledge, consent, or connivance of the owner, and in contravention of his orders, then the Inspector may proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the owner.

Notice of intention to prosecute.

37. Where an Inspector intends to prefer a complaint against an owner of machinery that a young person has been employed in the management or in the working or control thereof, as the case may be, or that any part of the machinery, or hoist, or any wheel-race, is not securely fenced and protected, he shall give ten days' notice previous to the day fixed for hearing the complaint; and if the party complained against intends to bring forward any person skilled in the construction of the machinery as a witness at the hearing of the case he shall give notice of such intention to the Inspector at least forty-eight hours prior to the hearing of the case.

When owners and mortgagees not liable.

38. (1.) No person shall be liable to the provisions of this Act as an owner of machinery or a boiler unless the same is under his immediate power or control, nor shall any mortgagee of machinery or a boiler be liable as hereinbefore mentioned unless he is in actual possession thereof, or has the same under his immediate power or control.

(2.) For the purposes of this section the words "immediate power or control" mean where the machinery or boiler is worked or used by the owner of such machinery personally, or by his agents, servants, or others under his orders or directions, and for his benefit or profit.

(3.) Nothing herein shall exempt any corporate body from liability under this Act by reason only that any such machinery or boiler is under the control of any directors, secretary, manager, or other person elected or employed by such corporate body for the benefit of or on behalf of such body.

#### *Inquiries as to Accidents.*

Inspector to be notified of accident.

39. (1.) Where loss of life or serious bodily injury to any person by reason of the explosion of a boiler, or by reason of an accident caused by machinery, occurs in any building or premises where there is a boiler or machinery of any kind (whether subject to the provisions of this Act or not), the owner of the boiler or machinery shall within twenty-four hours thereafter send notice to the Inspector at his office or usual place of residence, specifying the cause of the accident.

(2.) Every owner who neglects to send such notice as aforesaid is liable to a fine not exceeding twenty pounds and not less than ten pounds.

Inquiry into cause of accident.

40. (1.) In the event of an accident happening to machinery or a boiler (whether such machinery or boiler comes under the provisions of this Act or not), or where, by reason of such accident, any loss of life has happened or serious bodily injury occurred to any person, the Minister may direct an inquiry to be held before a Magistrate, together with a person skilled in the use and construction of such machinery or boiler to be appointed by the Minister.

(2.) The Magistrate, together with such person, shall have power to hold such inquiry at such times and places as the Minister appoints, and shall report on the cause of such accident to the Minister.

(3.) With respect to the summoning and attendance of witnesses at or upon any such inquiry, and the examination of such witnesses upon oath, every such Magistrate shall have all the powers which he would have or might exercise in any case within his ordinary jurisdiction under "The Justices of the Peace Act, 1908."

*Examination and Certificates of Engine-drivers.*

## Drivers of winding-engines and travelling engines.

41. (1.) Every person employed or acting in the capacity of engine-driver who is in charge of any winding-engine or winding machinery by means whereof persons are drawn up, down, or along any shaft, pit, or inclined plane or level in any mine or coal-mine shall be the holder of a winding-engine driver's certificate.

(2.) Every such person who is in charge of an engine while being propelled or moved from place to place by its own motive power and machinery (exclusive only of engines and boilers used or employed in the working of any railway the property of His Majesty) shall be the holder of a locomotive- and traction-engine driver's certificate.

(3.) For the purposes of this section every such person shall pass an examination and obtain from the Board of Examiners appointed under this Act a certificate of competency as to his possessing the necessary knowledge and requirements as to the working of such engine or machinery.

(4.) The holder of a certificate under subsection one of this section shall be deemed to be the holder of a certificate under subsection two, and the holder of any certificate under this section shall be deemed to be the holder of a second-class certificate under section forty-two hereof.

## Drivers of stationary engines and boilers.

42. (1.) Every person employed or acting in the capacity of engine-driver in charge of any steam stationary engine (other than a winding-engine as aforesaid) and boiler, or of any steam-boiler with no machinery attached thereto, whether such engine or boiler is on land or on a vessel, shall hold an engine-driver's certificate under this Act.

(2.) Such certificates shall be by examination, and shall be of two grades, to be called first-class and second-class engine-drivers' certificates respectively :

Provided that the holder of a first-class engine-driver's certificate who has worked as an apprentice for at least five years in a workshop where engines are manufactured or repaired, or where work of a similar character is performed, shall be entitled after examination to receive a certificate to be called an "extra-first-class certificate," in which the holder thereof shall be designated "an engineer."

(3.) An extra-first-class or a first-class certificate entitles the holder thereof to drive and have charge of any steam stationary engine and its boilers.

(4.) A second-class certificate entitles the holder thereof to drive and have charge of any steam stationary engine the area of cylinder or combined area of cylinders of which does not exceed two hundred circular inches, and of its boilers.

(5.) A certificate of any class entitles the holder thereof to have charge of any boiler to which no machinery is attached.

(6.) This section shall not apply to an engine the area of cylinder or combined area of cylinders of which does not exceed one hundred and forty-four circular inches, or a boiler of fifteen-horse power or under, or to any engine or boiler forming part of the propelling machinery of any ship.

Certain engineers deemed qualified under this Act.

43. For the purposes of the last preceding section—

- (a.) The holder of a first-class engineer's certificate issued under "The Shipping and Seamen Act, 1908," shall be deemed to be the holder of an extra-first-class certificate under the said section :
- (b.) The holder of a second-class engineer's certificate issued under "The Shipping and Seamen Act, 1908," shall be deemed to be the holder of a first-class certificate under the said section :
- (c.) The holder of a third-class or river engineer's certificate issued under "The Shipping and Seamen Act, 1908," shall be deemed to be the holder of a second-class certificate under the said section.

Provision for gold-dredges.

44. Where a gold-dredge is worked in shifts there shall be a person in general charge of the engine who is the holder of a certificate as required by this Act, and every other person in charge during any shift shall be the holder of a second-class certificate, or one of a superior grade.

Holders of marine, &c., certificates.

45. The Board may grant a certificate of the appropriate class, and without examination, to the holder of a certificate either of a third-class marine engineer, or a river engineer, or a marine-engine driver, or driver of a winding-engine, upon the production of satisfactory evidence that the holder thereof has for not less than twelve months been in charge of an engine, either on land or afloat, with cylinders of the area prescribed for such class.

Certificate of service to rank equally with certificate of competency.

46. Subject to any award under "The Industrial Conciliation and Arbitration Act, 1900," in force on the thirtieth day of October, one thousand nine hundred and three (being the date of the coming into operation of "The Inspection of Machinery Act Amendment Act, 1903"), every valid and subsisting certificate of service granted under any enactment heretofore in force relating to the granting of certificates of service shall for all purposes rank equally with a certificate of competency of a corresponding class.



Certain holders of second-class certificates entitled to be examined for first-class.

47. Notwithstanding anything in this Act, any person who has for not less than three years been in charge of an engine the cylinder of which exceeds in area one hundred and forty-four circular inches shall, after having received a second-class certificate, be entitled to be examined for a first-class certificate under this Act.

#### Examinations.

48. (1.) All examinations for engine-drivers under "The Mining Act, 1908," "The Coal-mines Act, 1908," or this Act shall be conducted by a Board of Examiners consisting of the Chief Inspector of Machinery and the Inspecting Engineer of the Mines Department.

(2.) The Board constituted under "The Inspection of Machinery Act, 1902," shall be deemed to be the Board under this Act.

(3.) The Minister may from time to time appoint any fit person to be a member of the Board; but any person so appointed shall act only while the Chief Inspector of Machinery or the Inspecting Engineer of the Mines Department is absent from Wellington, or is unable to attend the meeting of the Board, and the fact of any person so appointed acting as a member of the Board is sufficient evidence of his authority so to do.

(4.) All applications for examination shall be forwarded to the Chief Inspector of Machinery, at Wellington, accompanied with the prescribed fee, and, in the case of applications from engine-drivers in charge of any winding machinery used for raising and lowering men in a shaft of a mine or coal-mine, shall be accompanied also with a testimonial from his employer that the applicant has been working under a certificated engine-driver at such engine or machinery for a period of six months, or that he has served for one month working winding machinery under a certificated engine-driver:

Provided in the latter case that the applicant shall not be entitled to a certificate unless he—

- (a.) Is the possessor of a sea-going engineer's certificate; or
- (b.) Has served for three years fitting and erecting machinery;  
or
- (c.) Is the possessor of a traction- and locomotive-engine driver's certificate; or
- (d.) Has had charge of a land boiler and machinery (including traction and locomotive engines) for two years.

(5.) On an applicant passing the prescribed examination the Board shall issue a certificate of the appropriate class, to be called an "engine-driver's certificate," and, in the case of a person in charge of winding machinery as aforesaid, such certificate shall state on the face of it whether it is granted in respect of steam winding machinery or hydraulic winding machinery.

(6.) An Inspector of Machinery may, with the approval of the Board, on occasions as he thinks fit, examine any applicant for a

second-class certificate, or for a winding-engine or locomotive- and traction-engine certificate, orally as to his qualifications for a certificate as an engine-driver, and the oral examination may be accepted by the Board on the report of the Inspector in lieu of a written examination.

(7.) The Board may grant or refuse a certificate upon any grounds it deems advisable.

Certificates from beyond New Zealand recognised.

49. On payment of the prescribed fee the Board may, without examination, grant any certificate required by this Act to any person of good repute who satisfies the Board that he is the holder of a corresponding certificate of equal status, granted after examination by any duly constituted and recognised authority outside New Zealand.

Disqualification of holder of certificate.

50. Where it appears to the Board that the holder of a certificate under this Act is guilty of any offence or misconduct which would render him unfit to be trusted to efficiently perform his duties as such holder, the Board may call upon him to show cause why he should not be disqualified, and if he fails to show cause the Board may report the matter to the Minister, who, by notice in the *Gazette*, may disqualify him for such period as he thinks fit, and during the period of disqualification he shall be deemed not to be the holder of such certificate.

Acting without certificate.

51. Every person who acts in the capacity of engine-driver in charge of any steam stationary engine or its boiler, or of a boiler which has no machinery attached thereto, or of any winding-engine or winding machinery, or of an engine propelled or moved from place to place by its own motive power and machinery, without a proper certificate, where a certificated driver is by law required, and every person who employs such uncertificated driver or person so in charge as aforesaid, is liable to a fine not exceeding five pounds for every day or part of a day during which he so acts.

Obtaining certificate improperly.

52. (1.) Every person who obtains or attempts to obtain any certificate under this Act by fraud, and every person who gives to any person any false testimonial as to service, is liable to a fine not exceeding twenty pounds.

(2.) Every certificate improperly obtained, whether obtained before or after the passing of this Act, may be cancelled by the Board; and the holder thereof shall, when called upon by the Board, return such certificate.

(3.) Every person who uses any such certificate, after notice by the Board that the same has been cancelled, is liable to a fine not exceeding twenty pounds.

*Miscellaneous.*

*Protection of Inspectors.*

53. Division IV of "The Justices of the Peace Act, 1908," shall, so far as applicable, extend to protect Inspectors under this Act in the execution of their duties.

*Power to enter and inspect certificates.*

54. Any person appointed by the Minister may enter upon any premises in which machinery is working and inspect the certificate in respect of the machinery and boiler respectively, and the certificate of the person in charge of an engine or boiler.

*Responsibility of owners, &c., maintained.*

55. Nothing in this Act, or in any certificate granted under its provisions, shall relieve any owner of the machinery or boiler from liability to any action or suit, or from liability to any civil or criminal proceeding; but all rights of parties and all liabilities of owners of boilers or machinery, or of any other person or persons in respect thereof, shall remain unaffected by this Act.

*Service of notices, &c.*

56. Where a notice, summons, or other process is required to be served upon any owner under the provisions hereof, service on the manager, foreman, conductor, or agent of such owner shall be good and lawful service.

*General penalty.*

57. Every person who wilfully contravenes any provision of this Act for which no other penalty is imposed is liable for each offence to a fine not exceeding ten pounds.

*Application of part of fine to person injured.*

58. Any Magistrate or Justices imposing any fine under this Act may, if he or they think fit, direct that a part not exceeding one moiety thereof shall be applied to compensate any person for any bodily injury or damage sustained by him by reason of the default in respect of which such fine is imposed.

*Expenses of administration.*

59. All moneys paid to Inspectors by way of salary, and all the costs and charges of carrying this Act into execution, shall be paid out of moneys appropriated for that purpose from time to time by Parliament, and all fees and, subject to the last preceding section, all fines received under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

*No certiorari.*

60. A summary conviction or adjudication under this Act, or an adjudication made on appeal therefrom, shall not be quashed for want of form, or be removed into the Supreme Court by *certiorari*.

## Regulations.

61. The Governor may from time to time, by Order in Council gazetted, make regulations not inconsistent with this Act—

- (a.) Regulating the duties of the Chief Inspector and of Inspectors ;
- (b.) Prescribing the forms of notices to be given under this Act in any case where the same are not herein provided for ;
- (c.) Prescribing a form of record-book, to be kept for the entry of particulars as to inspection of boilers, and the mode in which the same shall be kept, and at what places and times the same shall be open to inspection ;
- (d.) Prescribing the time and place in each district at which fees shall be paid to an Inspector, or to some other officer or person other than an Inspector ;
- (e.) Regulating the examinations for certificates, and prescribing the fees to be paid by applicants for certificates, and the forms of such certificates ;
- (f.) Prescribing how and under what circumstances engines used for agricultural or dairy purposes only may be driven by uncertificated persons ; and
- (g.) Generally for carrying this Act into execution.

Act not to extend to certain machinery, &c.

62. Nothing in this Act shall apply to or affect any engines, boilers, or machinery used on or employed in the working of any railway or other public work constructed on behalf of His Majesty or the Government of New Zealand under the authority of any Act ; nor shall this Act prejudice or in any way interfere with the powers of inspection and regulation of steamships, and the machinery thereof, contained in “ The Shipping and Seamen Act, 1908.”

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### ENACTMENTS CONSOLIDATED.

1902, No. 42.—“ The Inspection of Machinery Act, 1902.”

1903, No. 12.—“ The Inspection of Machinery Act Amendment Act, 1903.”

## SECOND SCHEDULE.

## MACHINERY TO WHICH THIS ACT APPLIES.

ALL machinery worked by steam or water power, or by electricity, gas, or gaseous products, or compressed air, or in any other manner (other than by hand or machinery driven by animal power) in which motive power may be obtained, and used in printing, knitting, flax-milling, flour-milling, sawmilling, sheep-shearing, bone-crushing, rock-crushing, quartz-crushing, pumping, preserving, weight-raising, chaff-cutting, cloth-mills, woollen-mills, batteries, foundries, breweries, or in any other manufacturing or industrial process.

## THIRD SCHEDULE.

## (1.) NOTICE TO OWNER THAT MACHINERY IS DANGEROUS.

Under "The Inspection of Machinery Act, 1908."

To [*Name of owner*], of .

I HEREBY give you notice that the following parts of the [*Here name and describe the machine and the parts requiring to be guarded*] in your possession at appear to me to be dangerous, and likely to cause bodily injury to persons working or employed therewith, and I am of opinion that the same ought to be securely fenced by [*Here describe how the protection should be made*].

Dated this                      day of                      , 19 .

A. B.,

Inspector of Machinery for the

District.

## (2.) NOTICE TO OWNER THAT BOILER IS DANGEROUS.

Under "The Inspection of Machinery Act, 1908."

To [*Name of owner*], of .

I HEREBY give you notice that I have this day inspected a boiler attached to [*Here describe boiler*], and that the same appears to me to be dangerous, and to require repairs [*or is in such a dangerous state that it is unsafe to life and property to use the same*]. You are therefore hereby required to cause repairs to be effected in such boiler in the following particulars [*Here specify repairs to be effected*]. And you are hereby further required, within [*Here state period fixed*] from the time this notice is served on you, and until such repairs shall be effected, to wholly desist from using or suffering the said boiler to be used [*Or, if it is to be partially used, state particulars fully*].

Dated this                      day of                      , 19 .

A. B.,

Inspector of Machinery for the

District.

## (3.) CERTIFICATE FOR BOILER.

"The Inspection of Machinery Act, 1908."

No. of Certificate .

Official No. .

Name and address of owner :

Description of boiler :

Purpose for which used :

Where to be used :

Maker's name and number :

Pressure :                      pounds per square inch.

Date of inspection :                      , 19 .

This is to certify that I have inspected the boiler above mentioned on the date set forth, and consider the same in good repair, and fit to be used for the purpose stated until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that \_\_\_\_\_, certificated engine-driver, is required to be in charge.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

A. B.,  
Inspector of Machinery for the District.

(4.) CERTIFICATE FOR MACHINERY NOT DRIVEN FROM A STEAM-BOILER.

"The Inspection of Machinery Act, 1908."

No. of Certificate \_\_\_\_\_ Official No. \_\_\_\_\_

This is to certify that I have inspected the machinery mentioned at the foot hereof, and consider the same is properly fenced and protected, and fit to be used for the purpose stated below until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Dated this            day of            , 19    .

A. B.,  
Inspector of Machinery for the District.

*Particulars relating to the Machinery.*

Name and address of owner :

Description of the machinery:

Purpose for which used :

Where to be used :

Maker's name and number :

(5.) CERTIFICATE FOR MACHINERY ATTACHED TO STEAM-BOILER.

"The Inspection of Machinery Act, 1908."

No. of Certificate \_\_\_\_\_ Official No. \_\_\_\_\_

THIS is to certify that I have inspected all machinery on the premises of \_\_\_\_\_, at \_\_\_\_\_, and consider that the same is properly fenced, guarded, and in good repair, and may be used for the purpose for which it is now used.

Dated this            day of            , 19    .

A. B.,  
Inspector of Machinery for the District.

## FOURTH SCHEDULE.

FEES PAYABLE ON INSPECTION OF MACHINERY.

The amount specified in the first column is the amount of the fee; the amount specified in the second column is the sum which may be accepted in satisfaction of the fee, provided which sum is paid and the certificate in respect thereof is taken up within one month after the date of notice that such certificate is ready for issue.

In respect of boilers and digesters—	Fee.	Abated Sum.
	£ s. d.	£ s. d.
For every digester having a capacity of over 12 cubic feet .. .. .	0 15 0	0 10 0
For every boiler working up to 5-horse power ..	0 15 0	0 10 0
For every boiler working over 5- and up to 10-horse power .. .. .	1 10 0	1 0 0
For every boiler working over 10-horse power ..	2 5 0	2 0 0
Provided that where more than one boiler is connected with any machinery the maximum fees shall not exceed—		
For each series of five connected boilers .. .. .	5 0 0	4 0 0

	Fee.			Abated Sum.		
	£	s.	d.	£	s.	d.
In respect of machinery not having boilers connected therewith—						
For every hydraulic or other lift .. ..	0	10	0	0	5	0
For any other machine or machinery worked otherwise than by hand .. ..	0	5	0	0	2	6
Provided that no fee shall be payable on any Pelton or turbine wheel not exceeding 5-horse nominal power.						

## THE INSPECTION OF MACHINERY AMENDMENT ACT, 1908.

1908, No. 224.

AN ACT to amend “The Inspection of Machinery Act, 1908.”

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

### Short Title.

1. (1.) This Act may be cited as “The Inspection of Machinery Amendment Act, 1908,” and shall form part of and be read together with “The Inspection of Machinery Act, 1908” (hereinafter referred to as the principal Act).

(2.) This Act shall come into operation on the first day of January, nineteen hundred and nine.

### Section 2 of principal Act amended.

2. (1.) The definition of “boiler” in section two of the principal Act is hereby amended by omitting all words after the word “applied,” and substituting the words “under pressure for any purpose.”

(2.) The definition of “machinery” in the same section is hereby amended by omitting all words after the word “obtained,” and substituting the words “for any purpose” :

Provided that nothing herein contained shall apply to machinery driven by hand or animal power.

(3.) The Governor may from time to time, by Order in Council gazetted, declare that any specified kind of machinery or boiler shall cease to be subject to the provisions of the principal Act.

### Repeal.

(4.) Section ten and the Second Schedule to the principal Act are hereby repealed.

### Employment of young persons on lifts forbidden.

3. Section twelve of the principal Act is hereby amended by adding thereto the following subsection after subsection three :—

“(3A.) No hydraulic, electric, or other lift of any kind other than a lift worked by hand shall be worked at any time unless it is in charge of a male attendant of not less than eighteen years of age :

‘ Provided that the Minister may at any time, on being satisfied (upon the report of an Inspector of Machinery) that no attendant is necessary for the safe working of any particular class of lifts, exempt by notice in the *Gazette* that class of lifts from the requirements of this subsection; and any exemption so granted may, by a like notice, be at any time withdrawn.”

Section 25 of principal Act amended.

4. Section twenty-five of the principal Act is hereby amended by adding at the end of subsection one the words “ and is liable to a fine not exceeding one hundred pounds.”

Glass water-gauges to be protected.

5. On and after the first day of April, nineteen hundred and nine, every glass water-gauge fitted to a boiler shall at all times be provided by the owner of the boiler with suitable protection.

Alterations in cylinders to be notified to Inspector.

6. If the cylinders of any steam-engine have been bored out or renewed at any time, or any alteration has been made in the diameter of the cylinders, notice of such alteration shall within one month be sent by the owner to the Inspector of Machinery of the district in which the engine is working.

Drivers in charge of steam turbine stationary engines.

7. The class of engine-driver required to be in charge of a steam turbine stationary engine shall be determined by reference to the horse-power of the boilers used for supplying steam for such engine, as follows :—

- (a.) If the aggregate horse-power is fifteen-horse power or under, no certificated engine-driver shall be required ;
- (b.) If the aggregate horse-power is over fifteen- and under twenty-five-horse power, then an engine-driver holding a certificate not lower than second class shall be in charge ; and
- (c.) If the aggregate horse-power is twenty-five-horse power or over, then a first-class engine-driver shall be in charge.

Engine-driver to be in effective charge.

8. (1.) Where an engine and boiler of fifteen-horse power or over are in charge of a certificated engine-driver, he shall at all times be in effective charge thereof while the machinery is running or steam is being taken from the boiler for any purpose.

(2.) Every such engine-driver who, while in charge of an engine and boiler, absents himself from his charge in breach of the provisions of this section, and every owner of an engine and boiler who requires him to so absent himself, commits an offence.



In certain case engine and boilers to be in charge of different persons.

9. (1.) If on the report of an Inspector of Machinery the Chief Inspector of Machinery is of opinion that it is impracticable or dangerous for any certificated engine-driver to take sole charge of any steam-engine and its boilers at the same time, the Chief Inspector may, by notice in writing to the owner of the engine and boilers, require that, on and after a date to be stated in the notice, the boilers shall be in charge of some person other than the certificated engine-driver in charge of the engine.

(2.) Every person on whom such notice has been served who fails to comply therewith commits an offence.

Portable machinery and boilers.

10. The owner of any portable threshing-machine or portable boiler shall at all times keep his name and place of residence legibly painted thereon.

Official number of boiler to be stamped thereon.

11. (1.) The Inspector of Machinery shall legibly stamp every boiler in his district with the official number of the boiler on some conspicuous part thereof.

(2.) Every person who disfigures, destroys, or conceals such official number is liable to a fine not exceeding twenty pounds.

Driver required when crank-shafts coupled.

12. Where the crank-shafts of two or more steam-engines working side by side are coupled up to form one driving-power, or where two or more steam-engines are working side by side and driving a mutual shaft by means of belting or gearing, the class of engine-driver to be in charge of such engines shall be determined with reference to the combined circular inch area of the cylinders of such engines.

Section 41 of principal Act amended.

13. (1.) Subsection one of section forty-one of the principal Act is hereby amended by inserting before the word "persons" the words "material or."

(2.) Subsection two of the same section is hereby amended by omitting the words "an engine," and substituting the words "a steam-engine."

Certain maimed persons not to act as engine-drivers.

14. (1.) No person who has suffered the loss of a hand or a foot shall act as the driver of a locomotive steam-engine, or winding-engine.

(2.) Every person who acts as the driver of any such engine in breach of the provisions of this section is liable to a fine not exceeding five pounds for every day in which he so acts, and every person who employs him so to act is liable to a fine not exceeding five pounds for every day during which such employment continues.

Third-class marine engineer deemed holder of first-class stationary-engine driver's certificate.

15. Section forty-three of the principal Act is hereby amended by inserting, after the words "second-class" in paragraph (b), the words "or third-class"; and by omitting the words "third-class or" in paragraph (c).

Certificate of service to rank equally with certificate of competency.

16. (1.) Every valid and subsisting certificate of service granted under any enactment heretofore in force relating to the granting of certificates of service shall for all purposes rank equally with a certificate of competency of a corresponding class, and the holder thereof shall be entitled to the same rate of wages as the holder of a certificate of competency of a corresponding class.

(2.) This section is in substitution for section forty-six of the principal Act, which section is hereby accordingly repealed.

Chairman of and Secretary to Board of Examiners.

17. Section forty-eight of the principal Act is hereby amended by inserting the following subsection after subsection three:—

"(3A.) The Minister shall from time to time appoint one of the members of the Board to be its Chairman, and may also appoint a fit person to be Secretary to the Board."

Section 48 of principal Act amended.

18. Subsection four of section forty-eight of the principal Act is hereby amended by omitting all words after the words "lowering men" to but exclusive of the word "Provided," and substituting the following: "or material in a shaft of a mine or coal-mine shall be accompanied also by a testimonial from his employer that the applicant has been working under a certificated winding-engine driver at such winding engine or machinery for a period of six months, or that he has served for one month working winding-machinery under a certificated winding-engine driver."

Section 48 of principal Act further amended.

19. Section forty-eight of the principal Act is hereby further amended by inserting the following subsection after subsection five:—

"(5A.) Every applicant for examination shall be a British subject, and shall satisfy the Board that he can speak and write the English language sufficiently to be able to perform the duties he is required to perform as the holder of a certificate under this Act."

Proof of service.

20. When an applicant for examination for an engine-driver's certificate is unable to produce written proof of his service by reason of the loss or destruction of his papers, certificates, and discharges, or any of them, the Board may accept as evidence of his service a statutory declaration by the applicant giving particulars of his service and of the loss of papers and certificates.

## Physical disqualification for engine-driver.

21. No certificate shall be issued by the Board under section forty-one of the principal Act unless the applicant produces to the Board a certificate in writing signed by a registered medical practitioner that the applicant is neither wholly nor partially deaf, nor has defective eyesight, nor is subject to any other infirmity likely to interfere with the efficient discharge of his duties.

## Recognition of railway-locomotive drivers' certificates.

22. (1.) Notwithstanding anything in the principal Act, the Board may, in the manner provided by section forty-nine of the principal Act, grant a certificate to any person of good repute who satisfies the Board that he is the holder of a certificate under the hand of the General Manager of the New Zealand Government Railways to the effect that such person has passed an examination and has been employed in the Government Railways Department for a period of not less than two years in driving either a locomotive or a stationary engine.

(2.) An applicant who has been employed as aforesaid as the driver of a locomotive shall be entitled to receive a locomotive- and traction-engine driver's certificate, and an applicant who has been so employed as the driver of a stationary engine shall be entitled to receive a second-class stationary-engine driver's certificate.

(3.) The provisions of this section shall, *mutatis mutandis*, extend and apply to engine-drivers employed on the Wellington and Manawatu Railway, or on any railway the property of His Majesty in any British possession other than the United Kingdom, or on any railway in the United Kingdom.

## Repeal.

23. The Fourth Schedule to the principal Act is hereby repealed, and the following substituted therefor:—

## FOURTH SCHEDULE.

## INSPECTION FEES.

The amount specified in the first column is the amount of the fee; the amount specified in the second column is the sum which may be accepted in satisfaction of the fee, provided such sum is paid and the certificate in respect thereof is taken up within one month after the date of notice that such certificate is ready for issue.

In respect of steam vessels under pressure—	First Column.			Second Column.			
	£	s.	d.	£	s.	d.	
For every digester having a capacity of over 12 cubic feet . . . . .	0	15	0	..	0	10	0
For every boiler working up to 5-horse power..	0	15	0	..	0	10	0
For every boiler working over 5- and up to 10-horse power . . . . .	1	10	0	..	1	0	0
For every boiler working over 10-horse power..	2	5	0	..	2	0	0
For every steam receiver . . . . .	0	15	0	..	0	10	0
For every other steam vessel under pressure . .	0	15	0	..	0	10	0

	First Column.			Second Column.			
	£	s.	d.	£	s.	d.	
Provided that where more than one boiler is connected with any machinery the maximum fees shall not exceed—							
For each series of five connected boilers ..	5	0	0	..	4	0	0
In respect of machinery not having boilers connected therewith—							
For every hydraulic or other lift .. .. .	0	10	0	..	0	5	0
For any other machine or machinery worked otherwise than by hand—							
If of 5-horse power or under .. .. .	0	5	0	..	0	2	6
If over 5-horse power and not exceeding 10-horse power .. .. .	0	10	0	..	0	7	6
If over 10-horse power and not exceeding 30-horse power .. .. .	1	0	0	..	0	17	6
If over 30-horse power .. .. .	2	0	0	..	1	10	0

Provided that no fee shall be payable on any Pelton or turbine wheel not exceeding 5-horse nominal power.

### *Application of Act to Vehicles.*

Provisions as to motors and to vehicles propelled by steam.

24. (1.) The provisions of the principal Act relating to the employment of certificated engine-drivers shall not apply to any motor.

(2.) All the provisions of the principal Act with respect to boilers shall apply to the boilers of vehicles propelled by steam, save that in the case of a motor whose weight unladen does not exceed three tons a certificate granted in respect of the boiler thereof shall remain in force, unless sooner cancelled by the Inspector, until the boiler of that motor is renewed.

(3.) All the provisions of the principal Act with respect to the inspection of machinery and the grant of certificates in respect thereof shall apply to all vehicles propelled by steam, and to all motors whose weight unladen exceeds three tons, and for the purposes of those provisions all such vehicles and motors shall be deemed to be machinery subject to the principal Act.

(4.) Every person who becomes the owner of a vehicle propelled by steam, or of a motor whose weight unladen exceeds three tons, shall, within one month thereafter, send to the Inspector of Machinery of the district where the vehicle or motor is intended to be principally kept a notice stating the name and address of the owner, the weight of the vehicle or motor, and the nature of its motive power.

(5.) A like notice shall, within three months after the commencement of this Act, be sent to the Inspector by every person who at such commencement is the owner of a vehicle propelled by steam or of a motor whose weight unladen exceeds three tons.

(6.) The weight of every motor whose weight unladen exceeds two tons shall at all times be painted on some conspicuous part of the right-hand side in legible letters and figures of not less than one inch in height.

(7.) No vehicle, driven by mechanical power, which exceeds two tons in weight shall at any time be driven by any person under the age of eighteen years.

(8.) Except as expressly provided by this section or otherwise, the provisions of the principal Act and of this Act shall not apply to any vehicle.

(9.) For the purposes of this section "motor" means a vehicle propelled by its own mechanical power, and so constructed as not to emit smoke, steam, or visible vapour except from any temporary or accidental cause.

(10.) The provisions of this section do not apply to any engine used on a railway the property of His Majesty, or to any vehicle used upon a tramway other than a steam-engine.

Repeal.

(11.) Section eleven of "The Motor Regulation Act, 1908," is hereby repealed.

## EXTRACT FROM "THE JUDICATURE ACT, 1908," 1908, No. 89.

\* \* \* \* \*

Independent medical examination of person injured by accident.

100. (1.) Where any person injured or alleged to have been injured by an accident, through the wrongful act, neglect, or default of any other person, claims compensation or damages on account of the injury, any Judge of the Court in which proceedings to recover such compensation or damages are taken may order that the person injured be examined by one or more duly qualified medical practitioners named in the order, and not being witnesses on either side, and may make such order with respect to the costs of such examination as he thinks fit.

Proceedings stayed until examination.

(2.) If the person injured refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation or damages under any Act or law shall be suspended, and all proceedings brought by him in respect of such compensation or damages shall be stayed, while such refusal continues.

Section applies to the Crown.

(3.) This section applies to the Crown and to every Department of the public service.

Saving of Workers' Compensation for Accidents Act.

(4.) Nothing in this section shall affect the provisions of "The Workers' Compensation for Accidents Act, 1908."

THE KAURI-GUM INDUSTRY ACT, 1908,  
1908, No. 92.

---

AN ACT to consolidate certain Enactments of the General Assembly relating to the Kauri-gum Industry.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. (1.) The Short Title of this Act is “ The Kauri-gum Industry Act, 1908.”

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

Savings.

(a.) All districts, appointments, licenses, regulations, Orders in Council, registers, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated :

Provided that in the case of licenses granted the current term shall be computed from the date of its commencement.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Governor may constitute kauri-gum districts, kauri-gum reserves ; authorise local authorities to issue licenses.

2. The Governor may from time to time, by Order in Council gazetted,—

(a.) Divide any portion of the North Island of New Zealand into kauri-gum districts, with such names and boundaries as he thinks fit, adopting county boundaries as far as practicable ; and also

(b.) Set apart any specified areas of Crown lands within a kauri-gum district to be kauri-gum reserves under this Act ; and also

- (c.) Authorise any specified local authorities whose districts are in whole or in part comprised within a kauri-gum district to issue licenses under this Act.

Local authority may issue licenses.

3. (1.) Every local authority authorised as aforesaid (hereinafter referred to as "authorised local authority") may issue licenses under this Act as hereinafter provided; but it is hereby expressly declared that such local authority shall not have power to refuse a license to any person possessing any of the qualifications hereinafter provided, except in the case of aliens who arrived or arrive in New Zealand after the first day of January, one thousand eight hundred and ninety-nine (being the date of the coming into operation of "The Kauri-gum Industry Act, 1898"), and in the case of any person disqualified under section twenty-six hereof.

Fine for refusing to issue license.

(2.) If any officer of a local authority refuses a license to any person who proves that he is possessed of the necessary qualification in respect thereof, and has tendered the prescribed fee for such license, such officer shall for every such offence be liable to a fine not exceeding five pounds, to be recovered in any Court of competent jurisdiction by any person who may sue for the same.

Classes of licenses.

4. Such licenses shall be of three classes, to wit,—

- (a.) A special kauri-gum-digging license (hereinafter called a "special license");
- (b.) An ordinary kauri-gum-digging license (hereinafter called an "ordinary license"); and
- (c.) A kauri-gum-buyer's license (hereinafter called a "gum-buyer's license").

Kauri-gum reserves.

5. With respect to kauri-gum reserves, the following provisions shall apply:—

- (a.) Each reserve shall be situate in the neighbourhood of a village, special, or other settlement, the name or description whereof shall be specified in the Order in Council creating the reserve.
- (b.) Each reserve shall be available exclusively for kauri-gum digging, and no person shall be entitled to dig for kauri-gum thereon unless—
  - (i.) He is either a member of the settlement specified in the Order in Council creating the reserve or a native of the Maori race residing in the vicinity of such settlement; nor unless

(ii.) He is the holder of a special license which on its face is expressed to extend to such reserve.

Who may hold special licenses.

6. (1.) No person shall be entitled to receive or hold a special license unless he satisfies the authorised local authority to which the application therefor is made at the time of the application he possesses one or more of the following qualifications, that is to say,—

(a.) That he is the owner in fee-simple of land in New Zealand ;  
or

(b.) That he is the lessee of land in New Zealand under lease in writing lawfully granted by or derived from the Crown or other the owner in fee-simple, and having a term of not less than three years ; or

(c.) That he is a native of the Maori race ; or

(d.) That he has been lawfully engaged in digging for kauri-gum for not less than three months next preceding the first day of January, one thousand eight hundred and ninety-nine (being the date of the coming into operation of “ The Kauri-gum Industry Act, 1898 ”) ; or

(e.) That he is a British subject by birth or naturalisation.

(2.) For the purposes of this section “ lawfully engaged in digging for kauri-gum ” means, in the case of aliens, digging for such gum by virtue of a permit or license issued by the local authority or Commissioner of Crown Lands under “ The Land Act, 1892,” or any subsequent Act for like purposes.

Who may hold ordinary licenses.

7. No person shall be entitled to receive or hold an ordinary license unless he satisfies the authorised local authority to which the application therefor is made that he has resided in New Zealand for not less than three months next preceding the date of the application, or is a British subject by birth or naturalisation.

Further qualification as to kauri-gum reserves.

8. No person shall be entitled to receive or hold a special license which on its face is expressed to extend to a kauri-gum reserve unless he satisfies the authorised local authority to which the application therefor is made that, in addition to being qualified under section six hereof, he is either a member of the settlement specified in the Order in Council creating the reserve, or a native of the Maori race residing in the vicinity of such settlement.

Provisions as to form, fee for, and renewal of licenses.

9. With respect to every license under this Act, the following provisions shall apply :—



- (a.) It shall be in the prescribed form, and shall not be transferable.
- (b.) It shall continue in force until the thirty-first day of December next following the date of its issue, but may be renewed from year to year thereafter.
- (c.) There shall be payable upon the issue thereof, and upon every annual renewal thereof, a license fee at the rate of five shillings per year in the case of a special license, and one pound per year in the case of an ordinary license or a gum-buyer's license :  
 Provided that in the case of infirm persons the authorised local authority may remit the license fee.
- (d.) The renewal shall in every case be effected by indorsing on the license, under the hand of some person appointed in that behalf by the authorised local authority by which the license was issued, the words " Renewal fee paid, and license renewed for the year ending 31st December, 19 ."
- (e.) In the event of the license being lost or destroyed, the authorised local authority by which it was issued may, on satisfactory proof thereof, and on payment of a fee of one shilling, issue a duplicate with all existing indorsements, and such duplicate with its indorsements shall for all purposes operate in lieu of the original.

Rights conferred by licenses.

10. Subject to the provisions of this Act, every special or ordinary license shall, while it continues in force (but no longer), entitle the licensee named therein to exercise the following rights in respect of land within any kauri-gum district :—

- (a.) To dig for kauri-gum ; and also
- (b.) To take up and personally occupy as a residence or business site any area not exceeding two acres of unoccupied Crown land (other than land comprised in any kauri-gum reserve) upon such terms and conditions as are prescribed by regulations under this Act :

Provided that every application to take up and occupy land as a residence or business site shall, where the land so taken up and occupied is within a mining district, be submitted to the Warden, and shall not be granted except with his consent.

Restrictions as to digging on certain lands.

11. Except as specially provided in this Act, nothing in this Act or in any special or ordinary license shall operate or be construed to entitle the licensee to dig for kauri-gum within any kauri-gum district upon :—

- (a.) Any land (being unoccupied Crown land or land subject to " The State Forests Act, 1908 ") on which dead or live kauri-trees are standing ; or upon

- (b.) Any other land (being land subject to "The State Forests Act, 1908," or unoccupied Crown land within one mile thereof), except during the period from the first day of May to the thirtieth day of September in the year : or upon
- (c.) Any land comprised in a kauri-gum reserve, except in the case of the holder of a special license which is on its face expressed to extend to such reserve : or upon
- (d.) Any Native land, except with the consent of the Native owners thereof : or upon
- (e.) Any land owned or occupied by any person under any lawful title, except with such person's consent.

Rights conferred by gum-buyer's license.

12. Subject to the provisions of this Act, every gum-buyer's license shall, whilst it continues in force (but no longer), entitle the licensee named therein to carry on the business of a buyer of kauri-gum within any kauri-gum district.

Kauri-gum License Register.

13. (1.) Each authorised local authority shall keep a Kauri-gum License Register, and shall enter therein, in separate parts in respect of each class of license issued by it, the number of the license, the date of its issue, and the full name, occupation, and address of the licensee.

(2.) The licenses of each class shall be entered and numbered consecutively in order of date, so that no two licenses of the same class shall bear the same number in the same register.

Provisions relating to gum-buyers and their licenses.

14. With respect to gum-buyers' licenses and the holders thereof, the following provisions shall apply within every kauri-gum district :—

- (a.) It shall not be lawful for the licensee to directly or indirectly buy any kauri-gum, whether on his own account or as agent for any other person, except from the owner or occupier of Native or other land, or the holder of a special or ordinary license, nor unless, in the latter case, such holder produces his license at the time of the sale.
- (b.) The licensee shall keep a gum-purchase book, wherein he shall from day to day faithfully and accurately enter, in respect of each parcel of kauri-gum purchased by him, the date of the purchase, the quantity purchased, the price paid, the name of the seller, and (if the seller is a licensee) the number and class of the license, and the name of the authorised local authority by which it was issued.
- (c.) The licensee shall at all times keep his gum-purchase book open for inspection by any constable or by any Ranger under this Act.

Prohibition as to digging for or buying kauri-gum.

15. It shall not be lawful for any person —

(a.) To dig for kauri-gum upon —

(i.) Any land (being unoccupied Crown land or land subject to “ The State Forests Act, 1908 ”) outside a kauri-gum district ; or upon

(ii.) Any land within a kauri-gum reserve, except pursuant to the provisions of this Act and the authority of a special license which is on its face expressed to extend to such reserve ; or upon

(iii.) Any other land within a kauri-gum district, except pursuant to the provisions of this Act and the authority of a special or ordinary license ; or

(b.) To directly or indirectly carry on the business of a gum-buyer within any kauri-gum district, except pursuant to the provisions of this Act and the authority of a gum-buyer’s license : or

(c.) To pay for kauri-gum on premises licensed for the retail sale of intoxicating liquor.

What to constitute breach of Act.

16. If within any kauri-gum district any person is found digging or searching for kauri-gum, or in possession of the same, such digging, searching, or possession shall be deemed to be in breach of this Act, unless he gives satisfactory proof to the contrary.

Owner of Native or other land may dig thereon without license.

17. Nothing in this Act shall be construed to render it unlawful—

(a.) For the owner or occupier of Native or other land within any kauri-gum district to himself dig for kauri-gum upon such land without being the holder of a license :

(b.) For the owner of any freehold land to authorise in writing any person *bona fide* employed by him to dig for kauri-gum on such land, in which case the person so authorised shall, whilst so employed, be entitled to dig without holding a license.

Authorised local authorities to administer Act and appoint Rangers.

18. (1.) It shall be the duty of each authorised local authority out of its general funds to administer this Act within its district, and for that purpose to appoint one or more Rangers.

(2.) For the purposes of this section so much of any kauri-gum district as is within a county wherein “ The Counties Act, 1903,” is suspended or is not in operation shall be deemed to be within the district of such authorised local authority as the Governor in Council specifies in that behalf.

Constables to assist.

19. It shall be the duty of all constables to assist the authorised local authority and its Rangers in carrying out the provisions of this Act.

Constables may be Rangers.

20. With the consent of the Minister of Justice, and subject to such terms and conditions as he thinks fit, the authorised local authority may appoint constables to be Rangers.

Powers and functions of Rangers and constables.

21. For the purposes of this Act every Ranger and every constable shall have such powers and functions as are prescribed by regulations under this Act.

License to be produced.

22. Every licensee under this Act shall at all reasonable times produce his license to any Ranger or constable who demands the same.

Fine for breach of Act.

23. Every person who commits any breach of any of the provisions of this Act is liable to a fine not exceeding one pound in the case of a first offence, and not exceeding five pounds in the case of any subsequent offence.

License to be produced to Court.

24. In all proceedings against any person for any breach of this Act he shall be deemed to be unlicensed unless he produces his license to the Court.

Conviction to be indorsed on license.

25. If a licensee is convicted of any breach of this Act the convicting Court, in addition to imposing a fine, shall also indorse the conviction on the license; and upon a third indorsement the Court making the same may also forfeit the license.

Mode of forfeiture of license, and procedure thereupon.

26. Such forfeiture shall be effected by recording on the face of the license a minute to that effect, under the hand of the presiding Magistrate or Justice, and thereupon the following provisions shall apply:—

(a.) The license shall be deemed to be void, and the Clerk of the convicting Court shall send notice thereof to every authorised local authority, and shall also send the cancelled license to the authorised local authority by which it was issued.

(b.) Each authorised local authority shall forthwith upon receipt of such notice record in its register the fact of the forfeiture.

- (c.) The licensee named in the forfeited license shall not be qualified to apply for, receive, or hold a license until the expiration of twelve months after the date of such forfeiture, and any license issued in breach of this provision shall be deemed to be void.

Fines payable to authorised local authority.

27. All fines recovered in respect of any conviction under this Act shall be payable to the authorised local authority in or nearest to whose district the conviction is obtained.

Fees and fines to form part of general funds.

28. All fees and fines received under this Act by any authorised local authority shall form part of its general funds.

Gun-digging in State forests.

29. (1.) Notwithstanding anything in this Act, the Commissioner of Crown Lands may, with the consent of the Commissioner of State Forests, issue licenses under this Act for digging gum on land subject to "The State Forests Act, 1908," during the period from the first day of May to the thirtieth day of September in each year :

Provided that no person shall be entitled to receive or hold a license under this section unless at the time of his application for the same he possesses one or more of the qualifications prescribed for a special license by section six hereof.

(2.) A fee of ten shillings shall be payable in respect of every such license, which fee shall be paid into the State Forests Account.

Regulations.

30. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations for all or any of the following purposes :—

- (a.) Prescribing the form of applications and licenses under this Act ;
- (b.) Prescribing the powers and functions of Rangers and constables ;
- (c.) Generally any other purpose for which regulations are contemplated as required by this Act, or which the Governor deems necessary for giving full effect to this Act.

(2.) Such regulations may prescribe fines not exceeding five pounds for any breach thereof.

Right to dig to include searching and removing.

31. For all the purposes of this Act the right to dig for kauri-gum shall be deemed to include the right to search for and remove the same, and in every case where it is a breach of this Act to dig for kauri-gum it shall be deemed to be a breach of this Act to search for or remove the same.

Kauri-gum reserves may be leased for coal or gold mining.

32. Notwithstanding anything in this Act, it is hereby declared that leases under "The Coal-mines Act, 1908," and leases or licenses under "The Mining Act, 1908," may be issued in respect of land comprised in any kauri-gum reserve, subject to such conditions for the protection of the kauri-gum industry as the Warden, where the land is within a mining district, or the Commissioner of Crown Lands where it is outside a mining district, thinks fit :

Provided that before such lease is granted the local authority of the district in which the land proposed to be leased is situated shall first be consulted.

When reserve ceases to be such.

33. Where any land set apart as a kauri-gum reserve is no longer required for the purpose of gum-digging, the Governor may, by Order in Council gazetted, declare that such land is no longer subject to this Act, and thereupon the land shall cease to be a kauri-gum reserve, and shall be dealt with by the Land Board as ordinary Crown land :

Provided that such Order shall only be issued in pursuance of a resolution of the Land Board, supported by such independent evidence as the Governor in Council deems necessary.

---

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1898. No. 23.—"The Kauri-gum Industry Act, 1898."

1899. No. 18.—"The Kauri-gum Industry Act Amendment Act, 1899."

1902. No. 31.—"The Kauri-gum Industry Amendment Act, 1902."

1903. No. 71.—"The Kauri-gum Industry Amendment Act, 1903."

---

## THE LABOUR DEPARTMENT AND LABOUR DAY ACT. 1908.

1908, No. 93.

---

AN ACT to consolidate certain Enactments of the General Assembly relating to the Department of Labour and to Labour Day.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

### Short Title.

1. (1.) The Short Title of this Act is "The Labour Department and Labour Day Act, 1908."

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All appointments, regulations, notices, requisitions, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any of the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

*Labour Department.*

## Interpretation.

2. In this Act, if not inconsistent with the context,—

“Department” means the Department of Labour constituted under this Act :

“Employer” means any person, firm, company, or local authority employing labour of any kind for hire, and includes any agent, representative, or attorney of any of them respectively :

“Minister” means the Minister of Labour :

“Worker” means any person employed for hire to perform any clerical or manual labour of any kind.

## Department of Labour established.

3. There shall be a Department of the Public Service of New Zealand called the “Department of Labour,” having, under the direction of the Minister, such powers and duties as are provided for by this Act.

Governor may appoint a Secretary and other officers.

4. The Governor may from time to time appoint a Secretary to the Department, and such Inspectors, clerks, and other officers as may be deemed necessary, and who shall respectively perform such duties as the Minister from time to time determines.

## Expenses to be paid out of moneys appropriated.

5. The expenses incident to the administration of this Act shall be defrayed out of sums to be from time to time appropriated by Parliament for that purpose.

## Duties of Department.

6. The general duties of the Department shall be
- (a.) To administer the labour laws of New Zealand ;
  - (b.) To acquire and disseminate knowledge on all matters connected with the industrial occupations of the people, with a view of improving the relations between employers and workers ;
  - (c.) To collect and publish reliable information relating to or affecting the industries of New Zealand and rates of wages ; and
  - (d.) To perform such other duties as may from time to time be prescribed by any Act of the General Assembly.

## Powers of Department in collecting information.

7. For the purpose of obtaining the necessary information to enable the Department to carry out this Act, the Minister, and any officer of the Department appointed or authorised either specially or generally for that purpose, shall from time to time be entitled to—

- (a.) Procure from all officers of any industrial society, industrial union, trade-union, or other association of workers within the meaning of the respective Acts for the time being in force relating thereto, such information in writing as to the membership, benefits, or advantages enjoyed or obtainable under the rules or constitution of any such society, union, or association, and as to the disqualifications or disabilities under such rules or constitution, as the Minister from time to time either generally or specially directs or requires :
- (b.) Require any employer to state in writing—
  - (i.) The full name of every person having the principal control, superintendence, or management of any kind of business carried on by such employer ;
  - (ii.) The full name of every worker employed by him, together with the nature of the employment, the hours of labour, the mode, terms, and rate of payment therefor :
- (c.) Obtain from all persons able to furnish the same such further and other information in respect to the collection of Customs duties and their effect on the conditions and operations of labour and the industries of New Zealand.

## Information obtained not to be divulged.

8. (1.) No information obtained by the Minister or by any officer of the Department under any of the powers hereinbefore contained shall be made use of save for the purposes of this Act.

(2.) Every person who commits a breach of this provision is liable to a fine not exceeding fifty pounds.



Minister or officer to have powers under Commissions of Inquiry Act.

9. For the purpose of obtaining any information to which he is entitled under this Act, the Minister, or any officer appointed or specially authorised by him as aforesaid, shall have all the powers and authorities conferred by "The Commissions of Inquiry Act, 1908," on a commission issued or appointed by the Governor in Council; and the provisions of that Act shall, *mutatis mutandis*, extend and apply to any inquiry authorised by this Act.

Refusal to give information.

10. Every person who neglects or refuses for the space of one month after the second application to furnish the information required under any of the provisions of this Act is liable to a fine not exceeding twenty pounds, and every person who furnishes such information knowing it to be false is liable to a similar fine.

Recovery of fines.

11. All fines imposed by this Act shall be recoverable in a summary way before a Magistrate, under the provisions of "The Justices of the Peace Act, 1908."

Annual report to Parliament.

12. (1.) The Minister shall, in each year, make a report in writing to the Governor upon the operations of this Act and the working of the Department, together with such recommendations, either general or special, as he may think necessary in order to promote the efficiency or extend the usefulness of the Department.

(2.) Such report shall be so framed as not to disclose the name or identity of any employer, worker, or business, and shall contain a detailed account of the moneys expended by the Department in the administration of this Act.

(3.) Such report shall be laid before Parliament within fourteen days of the commencement of each session.

Regulations.

13. The Governor may from time to time, by Order in Council gazetted, make such regulations as he thinks necessary—

(a.) Prescribing the duties of the Secretary, Inspectors, and other officers under this Act :

(b.) Prescribing the forms of notices to be given under this Act, and the manner in which the same may be served ; and also the forms in which the information or particulars required or obtained under section seven hereof shall be supplied, and by whom and in what manner the same shall be authenticated :

(c.) Generally giving effect to this Act.

*Labour Day.*

Labour Day instituted.

14. The second Wednesday in the month of October in each year shall be known as Labour Day.

Labour Day a public holiday.

15. Labour Day is hereby declared to be a public holiday.

---

SCHEDULE.

ENACTMENTS CONSOLIDATED.

1899, No. 17.—“ The Labour Day Act, 1899.”

1903, No. 45.—“ The Labour Department Act, 1903.”

---

EXTRACT FROM “THE LAND FOR SETTLEMENTS  
ACT, 1908.”

1908, No. 97.

---

\* \* \* \* \*

Special provisions for taking land to provide workers' homes.

16. For the purpose of providing workers' homes within easy reach of the large centres of population land may be compulsorily taken within a borough having a population of not less than fifteen thousand inhabitants according to the latest census returns, or within a radius of fifteen miles from the boundary thereof, subject, however, to the following special provisions :—

(a.) The owner shall have the right to select and retain out of the whole estate any area not exceeding four acres if such area is within a borough, or twenty acres in any other case : Provided, nevertheless, as follows :—

(i.) The right shall be deemed to be waived unless in his claim the owner asserts the right, and also specifies with reasonable particularity the area, situation, and boundaries of the land he proposes to select and retain.

(ii.) The right to select and retain shall be so exercised as not to affect the land proposed to be taken, save to the extent necessary in order to enable the owner to select and retain up to the area aforesaid out of the whole estate.

- (b.) The right to take land compulsorily under this section shall not be affected by the fact that the whole or any part of another borough is comprised within the aforesaid radius.
- (c.) Land shall not be compulsorily taken under this section until after tenders have been called for land suitable for the purposes of workers' homes, nor unless the Board is satisfied that suitable land cannot be acquired by purchase or exchange.
- (d.) The provisions of the last preceding section shall not apply in the case of land taken under this section.

\* \* \* \* \*

## EXTRACT FROM "THE LEGISLATURE ACT, 1908," 1908, No. 101.

\* \* \* \* \*

Day of election to be half-holiday.

123. (1.) Subject to the provisions of this section, every day on which any election takes place shall be and be deemed to be a public holiday after midday, and it shall not be lawful to sell intoxicating liquors in any licensed premises within the district between the hours of twelve o'clock noon and seven in the evening.

(2.) Where the polling-day at any election is other than that appointed as the weekly half-holiday under "The Shops and Offices Act, 1908," the provisions of that Act relating to the weekly half-holiday shall be deemed to refer to the polling-day in lieu of the day so appointed, and it shall not be necessary for any employer to observe the day so appointed in the week in which the polling-day falls.

(3.) It shall not be necessary for any factory to close during any working-hours on the polling-day, but the occupier of the factory shall afford to each of his employees a reasonable opportunity of recording his vote, and no deduction shall be made from the wages of any such employee in respect of the time occupied in so recording his vote, provided that such time does not exceed one working-hour.

(4.) Every occupier of a factory who commits a breach of the last preceding subsection is liable to a fine not exceeding five pounds in respect of every employee.

\* \* \* \* \*

## EXTRACTS FROM "THE LICENSING ACT, 1908," 1908, No. 104.

---

\*                      \*                      \*                      \*                      \*

Day of election to be a public half-holiday.

39. Every day on which the licensing poll is taken in any district shall be and be deemed to be a public holiday after midday within such district, and such half-holiday shall be deemed to be a holiday within the meaning of the several statutes for the time being in force referring to public holidays.

\*                      \*                      \*                      \*                      \*

Day of election a public half-holiday.

46. The provisions of section thirty-nine hereof shall extend and apply to the day on which the election of the Licensing Committee takes place.

\*                      \*                      \*                      \*                      \*

Wages not to be paid in licensed premises.

167. If any master or other person employing journeymen, workmen, servants, or labourers pays or causes any payment to be made to any such journeymen, workmen, servants, or labourers in or at any licensed premises, or in any house in which liquor is sold, he shall for every such offence be liable to a fine not exceeding ten pounds :

Provided that nothing herein shall extend to any licensed person paying his own journeymen, workmen, servants, or labourers employed solely in his business as licensed person in his licensed house

\*                      \*                      \*                      \*                      \*

---

## THE MASTER AND APPRENTICE ACT, 1908. 1908, No. 115.

---

AN ACT to consolidate certain Enactments of the General Assembly  
relating to Masters and Apprentices.

BE IT ENACTED by the General Assembly of New Zealand in Parlia-  
ment assembled, and by the authority of the same, as follows :—

Short Title.

1. (1.) The Short Title of this Act is " The Master and Apprentice Act, 1908."

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

(a.) All regulations, Orders in Council, orders, notices, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) Nothing in this Act shall interfere with the operation of any other enactment containing restrictions as to the age at which any person may be apprenticed or employed or the nature of his employment.

(4.) This Act is divided into Parts, as follows :—

PART I.—Masters and Apprentices generally. (Sections 2 to 17.)

PART II.—Government Apprentices. (Sections 18 to 31.)

## PART I.

## MASTERS AND APPRENTICES GENERALLY.

## Interpretation.

2. In this Part of this Act, if not inconsistent with the context, “master” means any person to whom any child is bound apprentice by indenture or by assignment of the indenture.

## Exemption.

3. This Part of this Act does not apply to the clerks or apprentices of any person engaged in teaching any professional or scientific pursuit, or to any apprentice on whose binding a greater sum than thirty pounds is *bona fide* paid as the amount of fee or premium, or to any parties bound by any indenture of apprenticeship in which there is a clause expressly exempting them from the operation thereof.

Laws of England relating to master and apprentice to extend to New Zealand.

4. All masters of apprentices in New Zealand shall have such and the like powers over every apprentice as the master of every apprentice has by the laws of England, and shall be amenable and responsible for

the due performance of the contract entered into between or on the part of the apprentice and themselves respectively in the like manner as the master of any apprentice would be by the laws of England so far as the same are applicable to New Zealand and are not inconsistent with any of the provisions of this Part of this Act.

Orphan apprentices.

5. (1.) The persons who have the control or management of any orphan school, or any other public institution of a charitable nature, may from time to time nominate and return to the Minister of Internal Affairs the names of persons who may bind children under their charge as apprentices, and may from time to time change such nomination.

(2.) The persons so nominated, if approved by the said Minister (but not otherwise), shall be capable of binding such children as apprentices, and may, if they think fit, bind by indenture in writing children above the age of twelve years under the care or control of their respective institutions to be apprenticed to any farmer, householder, tradesman, or other person exercising any trade, art, or manual occupation for a term not exceeding five years.

(3.) Such term shall expire when such children respectively attain the age of nineteen years or (if females) marry with the consent of their parents or guardians.

Indentures of apprentices.

6. (1.) For the purpose of binding a child as apprentice under the last preceding section an indenture of apprenticeship shall be executed by the persons authorised in that section to bind such apprentice of the one part, and by the master of the other part.

(2.) Every indenture so entered into shall be binding on the child of the one part, and the master of the other part, and shall contain a covenant on the part and behalf of the master that during the term of apprenticeship the master shall provide the apprentice with sufficient and suitable food, clothing, and bedding; and that the apprentice shall attend divine service, when practicable, at least once on every Sunday, and shall have particular attention paid to his morals; and also that where the term of the apprenticeship exceeds two years the master shall pay into a savings-bank in New Zealand, in the name of the apprentice, the yearly sum of two pounds if a male, and thirty shillings if a female, for each and every year after the second year of the term, to be paid to the apprentice with the interest thereof at the expiration of the apprenticeship.

Apprentice may be taken.

7. (1.) Any householder, tradesman, farmer, or other person exercising any trade, art, or manual occupation may take, by indenture in writing, any apprentice above the age of twelve years to be instructed in such trade, art, or occupation for a term not exceeding

five years, which term shall expire at the time when the apprentice attains the age of nineteen years or (if a female) marries with the consent of her parents or guardians.

Indenture of apprenticeship to be executed.

(2.) Such indenture of apprenticeship shall be executed by the parent or guardian of the apprentice or (if he has no parent or guardian) by two Justices residing in or nearest to the district where the apprentice resides of the one part, and by the master to whom the apprentice is bound of the other part, and shall contain such covenants and provisoes, so far as applicable, as are usually inserted in the indentures of such apprentices in England : and such indenture shall be binding upon the parties executing the same.

Deserted children may be apprenticed.

8. Any two Justices may, with the consent of either of the parents if living and within New Zealand, but if otherwise, then without such consent, bind by indenture any child above the age of twelve years in respect of whose maintenance any order has been made under "The Destitute Persons Act, 1908," to be apprenticed to any householder, tradesman, farmer, or other person exercising any trade, art, or manual occupation for a term not exceeding five years, which term shall expire at the time when the child attains the age of nineteen years or (if a female) marries with the consent of her parents or guardians ; and such binding shall be as effectual to all intents and purposes as if the child had been of full age and had bound himself to be such apprentice.

Any master may with consent of two Justices assign such apprentice to any other fit and proper person.

9. The master of any apprentice, or the executors or administrators of the master in the event of his death, may, by indorsement on the indenture of apprenticeship, or by any other instrument in writing by and with the consent of two Justices under their hands, assign such apprentice to any fit and proper person who is willing to take the apprentice for the residue of the term mentioned in the indenture of apprenticeship : and the person to whom the apprentice is intended to be assigned shall at the same time, by indorsement on the counterpart of the indenture, or by writing under his hand stating the said indenture of apprenticeship and the indorsement and consent aforesaid, declare his acceptance of the apprentice, and acknowledge himself and his executors and administrators to be bound by the agreements and covenants mentioned on the part of the said master of the apprentice to be done and performed : and in such case the apprentice shall be deemed and taken to be the apprentice of such subsequent master to whom the assignment is made to all intents and purposes whatsoever.

## Unauthorised transfer or discharge.

10. Every master who puts away or transfers his apprentice to another, or in any way discharges or dismisses his apprentice from his service, without such consent as aforesaid, is liable to a fine of ten pounds.

## Jurisdiction of Justices.

11. Where any difference arises between any master and apprentice the party feeling aggrieved shall make his complaint before two Justices, who may in their discretion make such order and direction as the equity of the case requires ; and the said Justices may, on proof of ill usage or neglect of duty by the master, cancel the indenture of apprenticeship and discharge the apprentice from all obligation to serve thereunder by certificate under their hands, which certificate shall be a full and sufficient bar to any action which may be brought on such indenture.

## Ill usage of apprentices.

12. Every master who ill-treats or neglects to instruct properly or otherwise discharge his duty towards his apprentice is liable to a fine not exceeding ten pounds.

## Punishment of apprentices offending.

13. Any two Justices, on application or complaint on oath by a master against an apprentice concerning any breach of duty, disobedience, or ill behaviour in his service, shall hear, examine, and determine the same in a summary way ; and may, if he think fit, punish the offender by commitment to solitary confinement in prison for any period not exceeding three days :

Provided that such punishment shall in no case be inflicted upon any apprentice under fourteen years of age or upon any female apprentice.

## Apprentices absenting themselves.

14. (1.) If any apprentice absents himself from his master's service before the term of apprenticeship has expired, he shall, at any time thereafter whenever he is found, be compelled to serve his master for so long a time as he has so absented himself unless he makes reasonable satisfaction for the loss his master sustained by such absence ; and so from time to time as often as any apprentice without leave of his master absents himself from such service before the term of his contract is fulfilled.

(2.) In case any apprentice refuses to serve as hereby required, or to make such reasonable satisfaction to his master, such master may complain on oath to any Justice, who may issue a warrant under his hand for apprehending such apprentice to be brought before any two Justices, who shall hear the complaint in a summary way and determine what satisfaction shall be made to the master ; and in case the apprentice does not give security to make satisfaction according



to such determination he may be imprisoned for any period not exceeding three months, besides serving the period of time for which he was absent.

*No certiorari.*

15. No conviction, order, warrant, or other matter made or purporting to be made by virtue of this Part of this Act shall be removed by *certiorari* or otherwise into the Supreme Court.

*Application of fines.*

16. Any fine recovered under this Part of this Act against a master for ill usage or neglect to discharge his duty towards his apprentice shall, in the discretion of the Justices who imposed the same, be disposed of either towards any charitable institution in the district or place where the master resides or for the use of the apprentice as a compensation for such ill usage or neglect.

*Appeal.*

17. Any person who thinks himself aggrieved by any fine or punishment imposed or directed by and under this Part of this Act may appeal against the conviction to the Supreme Court according to the provisions of "The Justices of the Peace Act, 1908," relating to appeals from Justices.

## PART II.

### GOVERNMENT APPRENTICES.

*Interpretation.*

18. In this Part of this Act, if not inconsistent with the context,—

"Apprentice" means any male person who is apprenticed to learn or be taught or instructed in any art or trade under the provisions of this Part of this Act :

"Master" means any officer of the Government to whom any person is bound as apprentice under the provisions of this Part of this Act, and includes the successors of such officer in such office :

"Minister" means the member of the Executive Council to whose Department any officer is attached to whom persons may be apprenticed under this Part of this Act.

*Application of this Part.*

19. The Minister of Internal Affairs may from time to time, by notice in the *Gazette*, declare to what arts or trades the provisions of this Part of this Act shall extend and be applicable, and what officer in charge of or employed in any Department in which any such art or trade is used or exercised shall be the master to whom any such persons may be apprenticed :

Provided that the arts and trades used or exercised in the Departments mentioned in the Second Schedule hereto shall be deemed to be arts and trades within the meaning of this Part of this Act, and the officers named therein shall be deemed to be masters for the purposes of this Part of this Act without any further notice.

Who may take apprentices.

20. (1.) Any master having the special control or direction of any Department of the Government which has been declared to be a Department in which apprentices may be taken as aforesaid may, with the consent of the Minister, take and receive such and so many apprentices as he may be authorised or required to take for the purpose of being taught and instructed in the art or trade used or exercised in such Department or any branch thereof.

Term of apprenticeship.

(2.) Every such apprentice shall be bound to the art or trade for which he may be apprenticed for a term of not less than three nor more than seven years.

Indenture of apprenticeship.

21. (1.) For the purpose of binding such apprentice an indenture of apprenticeship, in the form or to the effect set forth in the Third Schedule hereto, shall be duly executed by the parent or guardian of the apprentice and by the apprentice of the one part, and by the master of the other part.

(2.) If the apprentice has no parent or guardian living or residing in New Zealand, a Magistrate or two Justices residing in the place where it is proposed the apprentice shall be bound shall join with the apprentice in the indenture.

(3.) Every indenture so entered into shall be binding on the apprentice and the master :

Provided that no master shall incur any personal liability or responsibility in respect of any such indenture of apprenticeship, or any covenant therein contained.

Payment of wages.

(4.) All moneys agreed to be paid as wages or gratuities to any apprentice shall be paid out of moneys appropriated from time to time by Parliament.

Apprentices may be removed from one workshop or from one part of New Zealand to another.

22. (1) The Minister may from time to time cause any apprentice to be removed from any workshop or place in New Zealand to any other workshop or place in New Zealand in which a like art or trade is used or exercised as that which such apprentice has contracted to learn or be instructed in :

Provided that no apprentice shall be moved or transferred from the place in which he was originally bound to serve as an apprentice except with his own consent, and with the consent of the parent or guardian named in the indenture of apprenticeship, or if such parent or guardian is not living or residing in such place, then without such consent.

(2.) Every such consent shall be signified in writing, and attested before a Justice in the form prescribed in the Fourth Schedule hereto or to the effect thereof.

(3.) Upon any such removal being made as herein provided, the apprentice shall, without entering into a new indenture of apprenticeship, become and be deemed to be the apprentice of the master of the workshop at the place to which he is so removed in the like manner and with the like effect as is mentioned in the next succeeding section in the cases therein provided for.

#### Provision in case of death or removal of master.

23. In case of the death of any master to whom any person is apprenticed, or in case such master from any cause ceases to be in the service of the Government, or is removed from the place in which the indenture was executed, it shall not be necessary to assign the apprentice to the successor in office of any such master, but such successor shall for all purposes be deemed to be the master of the apprentice as effectually as if the indenture of apprenticeship and the services of the apprentice had been duly assigned and transferred to him, and the apprentice shall serve him or his successors in office for the residue of the term mentioned in the indenture of apprenticeship.

#### Regulations for conduct of apprentices.

24. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations—

- (a.) For the conduct of persons apprenticed during the time of their employment, for prescribing the hours and times of employment, the rate of pay or gratuity to be allowed to such apprentices, providing for their classification, for prescribing the terms on which leave of absence may be granted, and in cases of sickness or accident :
- (b.) For the mode of holding inquiries into charges of misconduct or breach of duty of any kind, in respect of the employment of any apprentice :
- (c.) Prescribing fines not exceeding five pounds to be imposed upon any apprentice in respect of any proved breach of such regulations.

(2.) Such fines may be deducted from any wages or gratuity payable to the apprentice

#### Master not to discharge apprentice without consent of Minister.

25. (1.) No master shall put away, discharge, transfer, or dismiss any apprentice without the written consent of the Minister.

(2.) Every person offending against this provision is liable to a fine not exceeding twenty pounds.

Minister may direct causes of complaint between master and apprentice to be investigated, or may refer case to Magistrate.

26. (1.) Where any difference arises between a master and apprentice the party aggrieved shall make a complaint to the Minister, who shall order such inquiry into the matter of such complaint as is prescribed by any regulations to be made as aforesaid :

Provided that, if he thinks fit, he may require such party to make complaint before a Magistrate, who shall have power and authority to inquire into the complaint, and to make such order therein as the justice of the case requires.

(2.) A copy of such order shall be transmitted to the Minister, who shall take such steps to give effect thereto as may be necessary.

(3.) In any such case, or upon proof of ill usage or neglect of duty by the master, the Magistrate may, with the consent of the Minister, cancel the indenture of apprenticeship, and discharge the apprentice from all obligation to serve thereunder by certificate under his hand, which certificate shall be a bar to any action which may be brought on such indenture.

Magistrate may investigate cause of complaint against apprentice.

27. (1.) A Magistrate, upon complaint on oath by any master against any apprentice concerning any breach of duty, disobedience, or ill behaviour in his service, shall hear and determine the same in a summary way ; and may, if he thinks fit, punish the offender by ordering him to be imprisoned in solitary confinement for any period not exceeding seven days ; but no such punishment shall be inflicted on any apprentice under the age of sixteen years.

(2.) If any apprentice is convicted of an offence against this section, or is, in the opinion of the Minister, guilty of any gross or habitual breach of this Part of this Act or any regulations to be made hereunder, the Minister may dismiss the apprentice from the service of the Government, and thereupon the indenture of apprenticeship shall be wholly null and void.

Provision in case apprentice absents himself.

28. (1.) If any apprentice absents himself from his master's service before the term of apprenticeship has expired, he shall, at any time thereafter whenever he is found, be compelled to serve for so long as he so absented himself.

(2.) In case any such apprentice refuses to serve as hereby required, the master may complain to a Magistrate, who may issue a warrant for the apprehension of the apprentice to be brought before him or any two Justices, who shall hear and determine the complaint in a summary way.

(3.) If the apprentice does not give security to the satisfaction of the Magistrate or Justices that he will serve the master for so long as he so absented himself, he may be committed to prison for any period not exceeding three months, besides serving the period of time for which he was absent, over and above that mentioned in the indenture of apprenticeship.

*No certiorari.*

29. No conviction, order, warrant, or other matter made or purporting to be made by virtue of this Part of this Act shall be removed by *certiorari* or otherwise into the Supreme Court.

Offences, &c., to be heard in a summary way.

30. All proceedings for offences under this Part of this Act made punishable in a summary way, and all fines imposed hereunder, may be heard, determined, and recovered under the provisions of "The Justices of the Peace Act, 1908."

Apprentices not to be subject to the Civil Service Act.

31. No apprentice shall, during the time and so long as he is apprenticed, be deemed to be in the permanent employment of the Government within the meaning of "The Civil Service Act, 1908."

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### EXACTMENTS CONSOLIDATED.

1865, No. 45.—"The Master and Apprentice Act, 1865."  
1875, No. 38.—"The Government Apprentices Act, 1875."

---

### SECOND SCHEDULE.

Name of Department in which Art or Trade used or exercised.	Name of Officer to whom Persons shall be apprenticed.
Government Printing and Stationery Department	The Government Printer.
Government Railways Department	The officer in charge of the workshop where the apprentice is to be employed.

---

### THIRD SCHEDULE.

#### INDENTURE OF APPRENTICESHIP.

This indenture made in pursuance of "The Master and Apprentice Act, 1908" (hereinafter called "the said Act"), this                      day of                      , 19                      , between A. B. [Parent, guardian, Magistrate, or two Justices, as the case may be], of                      , of the one part; C. D. [Apprentice], of the second part; and [Here describe the

officer to whom apprentice is apprenticed], who with his successors in office is herein-after included in the expression "the master," of the third part: Witnesseth that, in consideration of the covenants hereinafter mentioned on the part of the said C. D. to be observed and performed, he the said master doth covenant, promise, and agree with and to the said A. B. to accept the said C. D. as his apprentice during the term of \_\_\_\_\_ years in manner as follows: That the master shall and will, according to the best of his power, skill, and knowledge, and so long as the said C. D. well behaves himself and performs the covenants on his part herein contained, teach the said C. D. in the trade or business of \_\_\_\_\_, and all and everything relating thereto: And that he will, out of moneys appropriated for that purpose by Parliament, and so long as the said C. D. performs and observes the covenants on his part herein contained, pay to the said C. D. [*Here state mode of remuneration, and the date when to commence and how to be paid*]: Provided that the covenants on the master's part shall bind the master so long only as he remains in the service of the Government of New Zealand in the Department in which the said C. D. is hereby apprenticed, and not further or otherwise. And the said A. B. [*Omit in the case of a Magistrate or Justices*], and the said C. D., for themselves severally, and for their several executors and administrators, do and each of them doth promise and agree with and to the master that the said C. D., from the date hereof during the term aforesaid, shall and will faithfully serve the master as his apprentice, and diligently attend to the said business, and at all times his secrets and the secrets of the Government of New Zealand keep, and the lawful commands of the master willingly obey; and shall not nor will absent himself from his master's service without the leave of the master or of the head of the Department in which he may be apprenticed, nor do or knowingly suffer any damage to be done to any goods, moneys, or other things which shall be delivered or put into his custody or care or under his control, but shall in all things demean himself as a good and faithful apprentice ought, and shall at all times obey and conform to the said Act and all or any regulations made thereunder and which may from time to time be in force thereunder. And for the performance of the covenants on the part of the said C. D. herein contained the said A. B. [*Parent or guardian; but not to be inserted in the case of a Magistrate or Justices*], a surety, doth hereby bind himself, his heirs, executors, and administrators, in the penal sum of £ \_\_\_\_\_.

In witness whereof the said parties have hereunto set their hands the day and year above written.

A. B., Parent

[Guardian, Magistrate, or two Justices,  
as the case may be].

C. D., Apprentice.

Signed by the said A. B., C. D., and E. F. E. F., Master,  
in the presence of—

#### FOURTH SCHEDULE.

I, C. D., of \_\_\_\_\_, hereby consent to my removal from the workshop situate at \_\_\_\_\_ [*or place*], where I am at present serving under an indenture of apprenticeship dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the workshop situate at \_\_\_\_\_ [*or to \_\_\_\_\_ (place)*], and agree to complete my service at such last-mentioned workshop [*or place*] with such master in the service of the Government as I may be required to serve under.

C. D., Apprentice.

[Where parent or guardian joins, add] I, E. F., the parent [*or guardian*] of the above-named C. D., hereby consent to his removal as above stated.

E. F., Parent [*or Guardian*].

Appeared before me, C. D. and E. F., and signed the above in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

A. B.,

A Justice of the Peace.

# EXTRACTS FROM "THE MINING ACT, 1908."

1908, No. 120.

---

AN ACT to consolidate certain Enactments of the General Assembly relating to Mines and Mining.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is " The Mining Act, 1908."

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall, without limiting the various specific saving provisions of this Act, apply :—

## Savings.

- (a.) All districts, Courts, offices, appointments, Proclamations, Orders in Council, orders, regulations, registers, registrations, records, warrants, licenses, leases, certificates, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Act divided into Parts.

- (4.) This Act is divided into Parts, as follows :—

PART I.—Preliminary. (Sections 2 to 7.)

PART II.—Districts and Appointments. (Sections 8 to 15.)

PART III.—Lands subject to this Act, and Lands exempted therefrom. (Sections 16 to 62.)

PART IV.—Mining Privileges. (Sections 63 to 225.)

PART V.—Working, Regulation, and Inspection of Mines. (Sections 226 to 276.)

PART VI.—Registration of Appliances and Processes for Treating Ores and Metals. (Sections 277 to 283.)

PART VII.—Compensation by the Crown. (Sections 284 to 294.)

PART VIII.—Mining Partnerships. (Sections 295 to 305.)

- PART IX. Administration of Justice. (Sections 306 to 355.)  
 PART X. Advances to Companies and Persons for Development of Mining. (Sections 356 to 363.)  
 PART XI. Gold-dealers. (Sections 364 to 383.)  
 PART XII.—Miscellaneous Provisions. (Sections 384 to 410.)

## PART I.

### PRELIMINARY.

Act not to apply to coal or coal-mining.

2. Except where hereinafter otherwise specially provided, nothing in this Act shall apply to coal or to mining or searching for coal.

Application to diamonds and other precious stones.

3. The Governor, by Order in Council gazetted, may from time to time declare that any of the provisions of this Act shall apply to mining for diamonds and any other specified precious stones, and may also from time to time define the districts wherein any such Order in Council shall take effect.

### Interpretation.

4. In this Act, if not inconsistent with the context,—

“ Act,” as a statutory enactment, includes all regulations made thereunder :

“ Claim ” means a parcel of land lawfully taken up and occupied under this Act or any former Mining Act for the purpose of mining for gold thereon ; but does not include land taken up, used, or enjoyed for the purpose of facilitating mining operations on a claim :

“ Clerk ” means Clerk of the Warden’s Court :

“ Crown lands ” means all lands whatsoever the title whereto in fee-simple is vested in His Majesty, whether by virtue of his prerogative or by operation of law, or by any deed or instrument, whether such lands are unalienated or are alienated by way of lease or license for depasturing purposes, or as a small grazing-run, under any Act providing for the disposition of lands of the Crown ; and includes Native ceded lands, and all other lands whatsoever over which His Majesty, or the Governor or the Minister on his behalf, by cession, agreement, or otherwise, possesses the right to authorise the carrying-on of mining operations ; but, except where otherwise specially provided, does not include—

(a.) Lands held by His Majesty on any trust, express or implied, in favour of any person ; nor

(b.) Lands held by His Majesty but dedicated to any public purpose ; nor



(c.) Public reserves and endowments within the meaning of this Act :

- “ Dam ” includes any natural as well as any artificial depository of water :
- “ District ” and “ mining district ” mean a mining district constituted under this Act :
- “ Endowment ” means any land set apart under any Act by way of endowment for any public body or local authority, in whomsoever the fee-simple of such land is vested :
- “ Former Mining Act ” means any Mining Act in force at any time prior to the coming into operation of this Act :
- “ Gold ” includes any substance containing gold or silver, or having gold or silver mixed therein, or set apart for the purpose of extracting gold or silver therefrom :
- “ Inspector of Mines ” or “ Inspector ” means an Inspector of Mines appointed under this Act, and includes an Assistant Inspector :
- “ Land ” includes water :
- “ Local authority ” means a Borough or County Council, a Town or Road Board, or a Harbour Board :
- “ Machinery ” includes all mechanical appliances of whatsoever kind used for any mining purpose :
- “ Metal ” includes gold :
- “ Mine,” as a noun, includes every parcel of land in, on, or under which any mining operations are carried on, whether such mine is occupied under any title or not : and includes also all machinery used in such operations :
- “ Mine,” as a verb, includes any mode or method of working a mine :
- “ Mine-manager ” means the person having the actual control and working of any mine :
- “ Mineral ” means any metal or mineral other than precious metals, precious stones, and coal : and includes petroleum and other mineral oils :
- “ Miner’s right ” includes also a consolidated miner’s right :
- “ Mining ” means mining operations, and includes prospecting :
- “ Mining Act ” means any Act relating to mining for gold or any other metal or mineral :
- “ Mining operations ” and “ mining purposes ” mean mining for gold or any other metal or mineral : and include—
  - (a.) The stacking, storing, and treatment of any substance supposed to contain gold or any other metal or mineral :
  - (b.) The erection, maintenance, and use of machinery, and the construction or use of races, dams, channels, batteries, dredges, buildings, and other works connected with any such operations or purposes :

(c.) The deposit or discharge of tailings, *debris*, refuse, and waste water produced from or consequent on any such operations or purposes :

(d.) The lawful use of land, watercourses, and water, and the doing of all lawful acts incident or conducive to any such operations or purposes :

“ Mining privilege ” means any license, right, title, or privilege relating to mining lawfully granted or acquired under this Act or any former Mining Act, and includes the specific parcel of land in respect whereof such license, right, title, or privilege is so granted or acquired : it also includes a timber-cutting right, a water-right not relating to mining, and also a business license, or a business, residence, or special site, but not an agricultural lease nor an occupation license :

“ Mining Registrar ” or “ Registrar ” means a Mining Registrar appointed under this Act :

“ Minister ” means the Minister of Mines :

“ Native ” means an aboriginal Native of New Zealand, and includes half-castes and their descendants :

“ Native ceded land ” means Native land over which his Majesty, or the Governor or the Minister on his behalf, by cession, agreement, or otherwise, possesses the right to authorise the carrying-on of mining operations :

“ Native land ” means land owned by Natives and acquired otherwise than by purchase from the Crown or from any person (other than a Native) deriving title from the Crown, whether the title to such Native land has or has not been ascertained by the Native Land Court or other duly constituted authority :

“ Native reserves ” includes all lands set aside for the use, support, or education of Natives, whether out of Crown lands or on or in connection with the sale by Natives of lands to the Crown :

“ Occupier ” of land includes every person in actual occupation of land under any lawful title granted by or derived from the owner of the fee-simple thereof :

“ Owner,” for the purposes of Part V of this Act, relating to the working, regulation, and inspection of mines, means the immediate proprietor, or lessee, or licensee, or occupier of any mine or any part thereof : and, in the case of an incorporated or registered company, includes the mine-manager of such company, and in any other case includes the mine-manager of any mine ; but “ owner ” does not include a person who merely receives a royalty, rent, tribute, or fine from a mine, or is merely the proprietor of a mine which is being worked by another person pursuant to any lease, grant, or license for the working thereof : Any contractor or

- tributer for the working of any mine or any part thereof, or for doing any specific work therein, shall be subject to this Act in like manner as if he were an owner, but so nevertheless as not to exempt the owner from any liability :
- “ Person ” includes mining partnerships, local authorities, and incorporated or registered companies :
- “ Prescribed ” means prescribed by this Act or by any regulations made thereunder :
- “ Private lands ” means lands owned in fee-simple under title from His Majesty, and includes land held under license or lease from His Majesty with the right of acquiring the fee-simple thereof :
- “ Public reserve ” means any land set apart for any of the purposes mentioned in the Second Schedule to “ The Public Reserves and Domains Act, 1908,” whether or not the same is vested in His Majesty or is vested in or under the control of trustees as hereinafter defined ; and includes any land set apart under this Act or any former Mining Act as a public reserve, but does not include such Crown lands within hundreds or elsewhere as are declared to be commonage lands :
- “ Race ” means any artificial channel or ditch for the conveyance of water or water and refuse, or into which water or water and refuse may be diverted or conveyed, for any purpose authorised by this Act, and includes the right to the water named in the grant of such race :
- “ Receiver ” means a Receiver of Gold Revenue appointed under this Act :
- “ Sea ” extends to low-water mark on the shore of such sea :
- “ Sluice-head ” means a stream of water capable of discharging sixty cubic feet of water per minute :
- “ Stream ” includes creek, river, and every tributary thereof whether water flows therein permanently or not :
- “ Transfer ” of a mining privilege includes sale, lease, transmission, mortgage, lien, incumbrance, or other disposition thereof or of any part thereof :
- “ Transmission ” of a mining privilege means the acquisition of title to a mining privilege by death, will, intestacy, bankruptcy, or marriage, or by appointment or succession to any office, or as trustee :
- “ Tributer ” means any person who, pursuant to an agreement with the holder of any mine, has the right to mine therein upon the terms of paying to such holder a percentage or portion of the earnings or proceeds of such mine :
- “ Trustees,” in relation to a public reserve or endowment, or Native reserve, means the persons in whom such reserve or

endowment is vested, or under whose control it is ; and, in respect to reserves or endowments vested in His Majesty, means the Governor :

“ Unalienated Crown land ” includes all Crown lands comprised in any mining privilege under this Act or any former Mining Act, or held under any lease or license for depasturing purposes or any occupation license :

“ Warden ” means any person appointed to be a Warden under this Act :

“ Watercourse ” means and includes any stream, pool, lake, or other natural channel or depository of water, whether containing water or not, and includes the water therein and the tributaries thereof :

“ Workman ” includes every person employed in working for wages, or on contract, on or in connection with any mining privilege other than a business-site or residence-site :

Words in this Act referring to a particular Court, office, or Warden or other officer shall be construed as referring to the Court or office in the district, or to the Warden or other officer having jurisdiction or exercising his functions within the district, wherein arose the matter in relation to which the reference is made ; or, if such matter did not arise within a district, then to the Court or office in, or to the Warden or other officer having jurisdiction or exercising his functions within, the nearest district.

Matters arising under repealed Acts to be determined thereunder.

5. (1.) All questions arising in relation to any Mining Act repealed by “ The Mining Act, 1898,” or in relation to any right, title, interest, or privileges acquired or any liability incurred thereunder respectively, shall, unless where otherwise is specially provided, be determined under such Act, notwithstanding the repeal thereof, and every such Act shall, for the purposes of this section, and of continuing and perfecting any matter or thing commenced or in progress thereunder, be deemed to be unrepealed.

(2.) All mining privileges granted or acquired or deemed to be granted or acquired under “ The Mining Act, 1905,” and subsisting on the coming into operation of this Act, shall be deemed to be granted or acquired under this Act, and consequently the provisions of section one hundred and fifty-five hereof, relating to surrender and exchange, shall not apply to such mining privileges.

Proclamations, &c., to continue in force.

6. All Orders in Council, Proclamations, appointments, awards, orders, rules, and regulations which, having been made under any former Mining Act, are in force on the coming into operation of this Act shall, save in so far as they are inconsistent with this Act, continue in force until altered or revoked under this Act.

Proclamations, &c., may be applied partially or generally.

7. Every Proclamation, Order in Council, order, rule, regulation, or *Gazette* notice made under this Act by the Governor or the Minister may be made from time to time, and so as to apply in any manner, partially or generally, in relation to matter, person, time, or place; and may from time to time in a similar manner be altered, revoked, or cancelled.

## PART II.

### DISTRICTS AND APPOINTMENTS.

Governor may constitute districts, alter their boundaries, or withdraw Crown lands therefrom.

8. The Governor may from time to time, as he thinks fit, by Proclamation,—

- (a.) Constitute and appoint any portion of New Zealand to be a mining district, and assign a name and boundaries to such district; and also
- (b.) Alter the name or boundaries of any mining district, or abolish any mining district; and also
- (c.) Withdraw any Crown lands from any mining district:

Provided that such alteration, abolition, or withdrawal shall not affect any mining privilege or other right, title, or interest lawfully acquired and existing within the area to which such alteration, abolition, or withdrawal relates at the time when the Proclamation effecting the same is made.

Constitution of Wardens' Courts and appointment of Wardens.

9. The Governor may from time to time, as he thinks fit, by Order in Council,—

- (a.) Constitute and appoint in and for any one or more districts or portions thereof such Wardens' Courts as he deems necessary; and also
- (b.) Abolish any such Court; and also
- (c.) Appoint fit persons to be Wardens, each of whom shall hold office during the Governor's pleasure, and for the purposes of this Act shall have jurisdiction throughout New Zealand, but shall exercise his jurisdiction and perform his duties and functions in such districts or localities as the Minister from time to time directs:

Provided that the fact of any Warden exercising jurisdiction or performing any duty or function in any Court, district, or locality shall be conclusive evidence of his authority so to do.

Appointment of Mining Registrars, Receivers of Gold Revenue, Clerks, and bailiffs,

10. (1.) The Governor may from time to time, in such manner and on such terms as he thinks fit, appoint for any one or more districts or

portions thereof such fit persons to be Mining Registrars, Receivers of Gold Revenue, Clerks, bailiffs, assistant clerks, assistant bailiffs, and other officers of Wardens' Courts therein as he deems necessary, all of whom shall hold office during the Governor's pleasure.

Deputies thereof.

(2.) If and as often as any such officer is incapacitated by illness, absence, or other sufficient cause from performing his duties, the Warden may appoint a fit person to act as deputy, who, whilst so acting, shall have all the functions and duties of the officer for whom he is the deputy.

(3.) An entry of every such appointment shall be made by the Warden in the minute-book of the Court.

Appointment of Inspectors of Mines and post-offices for payments.

11. The Governor may from time to time, in such manner and on such terms as he thinks fit,—

- (a.) Appoint fit persons to be Inspectors of Mines; and also
- (b.) Appoint any Receiver of Land Revenue to be at the same time Receiver of Gold Revenue; and also
- (c.) Appoint post-offices at which miners' rights may be issued by, and rents, royalties, fees, and other moneys receivable under this Act may be paid to, the Postmaster or chief officer in charge of any such post-office;

And may also prescribe the mining districts or portions thereof in and for which each such appointment is made.

Existing districts and Courts continued.

12. All mining districts and Wardens' Courts which, having been constituted under any former Mining Act, are in existence on the coming into operation of this Act shall be deemed to be constituted under this Act.

Persons continued in office.

13. Every person who, having been appointed to any office under any former Mining Act, holds that office on the coming into operation of this Act shall be deemed to be duly appointed to the same office under this Act.

Officers not to have personal interest.

14. (1.) It shall not be lawful for any person appointed or employed by or under the Crown in any capacity in the administration of this Act to hold, directly or indirectly, any pecuniary interest whatever in any mining privilege in the district in which he performs his duties:

Provided that this section shall not apply to surveyors, or to Postmasters or officers in charge of post-offices.

(2.) It shall not be lawful for any officer of a Warden's Court to knowingly do anything in any way connected with the administration of this Act otherwise than in the exercise of his functions and duties as such officer.

(3.) Every person who commits any breach of any of the provisions of this section is liable to a fine not exceeding one hundred pounds.

Penalty on Warden for acting if interested.

15. If any Warden knowingly adjudicates on any matter wherein he has, directly or indirectly, any pecuniary interest, then, in addition to any other penalty to which he thereby exposes himself, he is liable on conviction upon indictment in any Court of competent jurisdiction to imprisonment with or without hard labour for any term not exceeding two years, or to a fine not exceeding two hundred pounds.

\* \* \* \* \*

Labour conditions.

97. Every claim shall be deemed to be taken up and shall be held subject to the labour conditions following, that is to say :—

(a.) That the holder thereof will *bona fide* and continuously work the same by carrying on mining operations for gold thereon with reasonable diligence and skill, and will commence such operations.—

(i.) In the case of an ordinary alluvial claim, within forty-eight hours after the day on which it is taken up : and

(ii.) In the case of an ordinary claim other than an ordinary alluvial claim, within such number of days, not exceeding seven, as the Warden fixes when granting the license : and

(iii.) In the case of an extended claim, within such number of days, not exceeding fourteen, as the Warden fixes when granting the license : and

(iv.) In the case of a special claim, within such time as the Warden fixes when granting the license :

Provided that in the case of a special claim for dredging the holder shall commence and prosecute the construction or acquisition of a dredge for working the claim (but not necessarily on the claim) within such time or extended time as the Warden fixes at the time of granting the license or at any subsequent time.

(b.) That he will at all times employ in such operations such number of workmen as is prescribed by regulations in that behalf :

Provided that on application in that behalf the Warden in his discretion may from time to time reduce the prescribed number of workmen to such extent and for such period as he thinks fit, where he is satisfied that the prescribed number cannot be reasonably and advantageously employed :

Provided also that when such period exceeds six months the previous consent of the Minister shall be necessary :

Provided further that the reduced number of workmen shall in every case be wages-men.

Provisoes.

98. The last preceding section shall be construed subject to the following provisions :—

Date of commencement of work may be extended in certain cases.

- (a.) The Warden, in the case of a mining privilege to be used in working a claim, may from time to time, on application in that behalf, extend the date of the commencement of works on such mining privilege for such period as he thinks fit.

As to contiguous claims held by same person.

- (b.) In every case where two or more claims or other mining privileges contiguous to one another, or worked in conjunction with one another, are held by the same person or by co-partners in mining, it shall be a sufficient compliance with the aforesaid labour conditions if the total number of workmen employed on any one or more of such claims or other mining privileges, taken collectively, is not less than the total number prescribed for all such claims taken separately :

Provided that where the total area of such claims exceeds four hundred acres the number of workmen to be employed for every acre in excess of four hundred acres shall be such as is prescribed by regulations.

Number of workmen on dredging claims.

- (c.) In the case of a dredging claim the number of workmen required to be employed in any day shall not exceed the proportion of seven workmen for each dredge.

Labour conditions as to dredging claims.

- (d.) For the purpose of complying with the aforesaid labour conditions in the case of a dredging claim it shall not be necessary to use more than one dredge, except where the Warden otherwise orders, having regard to the area of the claim and the facilities for working it :

Provided that no order shall be made under this paragraph save on the report of an Inspector, and after the holder of the claim has had an opportunity of showing cause against the order.

Labour conditions, certain works included.

- (e.) For the purpose of compliance with the aforesaid labour conditions there shall be included all work done in the construe-



tion or erection of machinery, or in preparations indispensable to the actual commencement of mining operations, whether such work is done on or in connection with the claim itself or on or in connection with any special site or race or dam held by the claimholder for the purpose of facilitating mining operations on such claim.

Proportion of workmen to expenditure of capital.

- (f.) To the extent of one-half of the number of workmen which should otherwise be employed, the expenditure of capital shall be equivalent to the employment of workmen in the proportion of one man for every thousand pounds of capital which, to the satisfaction of the Warden, has been expended by the holder of the mining privilege in plant or permanent works for the purposes of such privilege.

\* \* \* \* \*

*As to Workmen and other Persons employed in Mining Privileges.*

Payment of wages at or near the mine.

213. All wages payable to the workmen employed at any mine shall, if so requested by a majority of such workmen, be paid either at the mine or at some place not more than two miles from the mine.

Lien for wages or contract-moneys.

214. Every person who is employed by or under the holder of any mining privilege (other than a business-site or residence-site) to work thereon on wages or on contract shall, by force of this Act, have a lien on such mining privilege (and also on any other mining privilege held and worked in connection therewith by the same holder) for wages or contract-moneys owing to him by reason of such employment, and such lien shall extend and operate in manner following, that is to say :—

- (a.) The lien shall extend to three months' wages in the case of a wages-man, and to one hundred pounds in the case of a contractor or subcontractor.
- (b.) Where the lien is in respect of wages owing by a contractor it shall operate only to the extent of the amount owing under the contract to the contractor by the holder of the mining privilege.
- (c.) Where the lien is in respect of wages owing by a subcontractor, or in respect of contract-moneys owing to a subcontractor, it shall operate only to the extent to which the amount owing by the contractor to the subcontractor is also owing to the contractor by the holder of the mining privilege.

- (d.) All moneys paid under either of the two last preceding paragraphs by the holder of the mining privilege may by him be deducted from moneys owing by him to the contractor, and in the case of moneys paid under the last preceding paragraph may by the contractor be deducted from moneys owing by him to the subcontractor.
- (e.) As between wages-men and contractors, the lien of a wages-man shall have priority.
- (f.) As between contractors and subcontractors, the lien of a subcontractor shall have priority.
- (g.) The lien may, in the prescribed manner, be registered in the Warden's Court, and shall be void unless it is registered,—
  - (i.) In the case of a wages-man, within thirty days after he ceases his employment or the three months' wages become due, whichever event is the earlier; and
  - (ii.) In the case of a contractor or subcontractor, within thirty days after the contract or subcontract is completed or otherwise determined, or the one hundred pounds become due, whichever event is the earlier.
- (h.) On the day on which the lien is registered the Clerk of the Court shall, by registered letter, post notice thereof in the prescribed form to the holder of the mining privilege to which the lien relates.
- (i.) As between wages-men, contractors, and subcontractors *inter se*, their respective liens shall have priority according to the date of registration; but as between lienees of the same class all registered liens shall rank equally and alike in respect of such portion of the amounts to which the liens relate as was earned during one and the same period of time.

Lien to have priority.

215. A duly registered lien under the last preceding section or under the corresponding provisions of any former Mining Act shall have priority over all other then existing or subsequently created incumbrances, liens, or interests whatsoever affecting the mining privilege to which such registered lien relates.

Warden to determine all questions relating to liens.

216. (1.) The Warden shall have jurisdiction to determine all questions and claims relating to such liens, including all questions and claims relating to the amounts payable under such liens, their order of priority, and the mode of satisfying and discharging the same.

(2.) Payment into Court of the amount of the lien or the receipt of the workman duly filed shall act as a discharge of the lien, and the Registrar shall thereupon note such discharge upon the title.

Mining privileges may be sold to satisfy lien.

217. (1.) For the purpose of satisfying and discharging any such lien the Warden may, by order made on the application of the licensee, cause the mining privileges to which the lien relates to be sold by public auction at such time and place and on such terms and conditions as he thinks fit.

(2.) No order for the sale of any mining privilege shall be made under this section unless the application is made within three months after the registration of the lien or within such further period not exceeding three months as the Warden may by order allow, nor unless due notice of the application has been given to the holder of the mining privilege.

How proceeds of sale to be applied.

218. (1.) The moneys produced by any such sale shall be applied first, in or towards defraying the costs and expenses of the sale ; secondly, in or towards defraying the costs and expenses of the proceedings in which the order for sale was made ; thirdly, in or towards satisfying and discharging, according to their respective priorities, all registered liens ; and the surplus, if any, shall be payable to the person entitled thereto.

Warden may execute transfer of sale.

(2.) For the purpose of completing the title of the purchaser at any such sale the Warden, in his official name and under his official seal, may, at the cost in all things of the purchaser, execute all such instruments of transfer or other assurance as are necessary ; and every instrument so executed shall vest the purchased property in the purchaser freed from all incumbrances whatsoever other than those (if any) subject to which the sale was expressed to be made.

(3.) The Warden shall incur no personal or other liability by reason of executing any such instrument.

Mortgagee may satisfy liens.

219. Any mortgagee of the mining privilege ordered to be sold as aforesaid may, at any time before the sale, apply to the Warden for leave to pay into Court whatever sum is necessary in order to satisfy the liens with costs and expenses, and thereby avoid the necessity of the sale : and upon the sum as fixed by the Warden being paid into Court the Warden may by order stop the sale.

Moneys so expended to be added to mortgage.

220. The sum so paid into Court shall be applied in like manner as in the case of the proceeds of a sale, and all moneys (including costs and expenses) expended or incurred under this or the last preceding section by the mortgagee shall, by force of this Act, be deemed to be added to and to form part of the principal moneys owing under his mortgage, and shall be covered by the security thereof accordingly.

Mining privilege includes plant and machinery.

221. For the purposes of the seven last preceding sections the expression "mining privilege" includes all plant and machinery situate on or worked in connection with the mining privilege and belonging to the holder thereof; and "holder of a mining privilege" includes any person (whether registered or not) having any legal or equitable interest in the mining privilege.

Exceptions.

222. Except in so far as is prescribed by regulations under this Act, "The Wages Protection and Contractors' Liens Act, 1908," shall not apply to any such lien as aforesaid.

Lien of tributers on earnings of claim.

223. With respect to tributers in any claim, but irrespective of their rights under the aforesaid Act, the following special provisions shall apply:—

(a.) As against the holder of such claim, and all persons claiming under or through him (hereinafter called "such holder"), every such tributer shall, in respect of his labour in such claim, have a lien upon all earnings the result of such labour:

Provided that the amount of such lien shall not exceed at any one time four weeks' wages, computed at half the rate current in the district, such rate in no case deemed to be more than two pounds per week.

(b.) If such earnings are in the possession of the party of tributers, it shall be lawful for them to deduct therefrom the amount of every such lien before delivering up any such earnings to such holder.

(c.) If whilst any such lien is unsatisfied such earnings are in possession of such holder, it shall be his duty to apply the same in or towards equal satisfaction of all such liens; and if he fails or neglects so to do within two days after receipt by him, his manager or agent, of demand in writing in that behalf from any such tributer, then, without affecting the validity of any such lien, the amount thereof shall, to the extent of the total value of such earnings, but not further or otherwise, be deemed to be a debt due from him to the tributer entitled to such lien, and may be recovered accordingly.

(d.) So long as the lien of a tributer remains unsatisfied to the extent of more than two weeks' wages computed as aforesaid, and such holder has in his possession earnings available but unapplied in or towards satisfaction thereof, such holder shall not be entitled to count such tributer as a workman for the purposes of compliance with the prescribed labour conditions.

- (e.) If any question at any time arises as to the amount of such earnings as aforesaid, or as to the mode of computing the same, or as to the amount of any lien, or as to the mode of enforcing and satisfying the same, the Warden shall decide, and his decision shall be final.

Right to metals and minerals found to vest in employer.

224. If any person is employed for hire or reward to work in a claim, or to prospect, the right to all metals and minerals found by him in the course of such employment, and also the right to take up or hold any claim or other mining privilege on the land on which he is so employed, shall, as between him and his employer, vest in the employer and not in the person so employed, and for the purposes of such employment it shall not be necessary for such person to himself hold a miner's right.

#### *As to Tribute Agreements.*

Provisions as to agreements for working claims on tribute.

225. With respect to every agreement for the working of a claim on tribute the following provisions shall apply :—

- (a.) The agreement shall be in writing, signed by or on behalf of the parties, and shall have no force or effect as against the tributers unless and until, by memorandum thereon under his hand, the Warden, on the application of the claimholder, certifies that the terms and conditions are reasonable and proper in so far as concerns the interests of the tributers :

Provided that the tributers shall be at liberty to enforce the agreement, notwithstanding the fact that the Warden's certificate has not been given.

- (b.) Where a quartz claim is let on tribute, the amount of tribute-money payable to the owner for ground let in blocks shall not exceed ten per centum of the value of the gold won in the case of surface blocks, or fifteen per centum in the case of blocks where winding or pumping is required.
- (c.) In every tribute agreement there shall be expressed or implied a provision that no tribute-money shall be payable in any case where the value of the gold won, deducting all expenses other than wages, does not exceed half the current rate of wages.
- (d.) Notwithstanding anything to the contrary in the agreement, no provision contained therein for the forfeiture or cancellation thereof or of the tributer's rights thereunder shall operate or be enforceable by the claimholder or his successor in title without the consent in writing of the Warden.
- (e.) Notice of the intended application for such consent shall be given to the tributers, or to at least one of them, by the applicant.

- (f.) On the hearing of the application the Warden shall have regard to the equities of the case, and, after hearing the parties, may grant or refuse the application, or relieve from forfeiture or cancellation, on such terms as he thinks equitable, or make such other order in the premises as he thinks equitable : and every such order shall be binding on the parties.
- (g.) Nothing in this section or in any such agreement shall operate to limit the rights of tributers under section two hundred and twenty-three hereof.
- (h.) The stamp duty payable on any instrument of agreement to work as a tributer in any claim shall be one shilling.

## PART V.

### WORKING, REGULATION, AND INSPECTION OF MINES.

*As to Certificated Mine-managers, Battery Superintendents, Engine-drivers, and Dredgemasters.*

#### Board of Examiners.

226. For the purpose of conducting the examination of applicants for certificates as mine-managers, battery superintendents, or dredgemasters under this Act, and issuing such certificates, there is hereby constituted a Board of Examiners (hereinafter called “the Board”), consisting of—

- The Director of the Geological Survey of New Zealand ;
- The Surveyor-General ;
- The Inspecting Engineer of Mines ; and
- Four other persons to be appointed by the Governor, all of whom shall be holders of first-class mine-managers’ certificates.

Appointment of Chairman, examinations and procedure, and alteration of constitution.

227. With respect to the Board the following provisions shall apply :—

- (a.) The Governor shall appoint one of the members of the Board to be its Chairman, and may also appoint a fit person to be its Secretary.
- (b.) All examinations shall be conducted and certificates shall be issued by the Board according to regulations under this Act ; and, subject to such regulations, the Board may, by by-laws or otherwise, prescribe its own procedure.
- (c.) The Governor may from time to time alter the constitution of the Board by appointing as members thereof other persons in lieu of those hereinbefore mentioned ; or may authorise and direct any School of Mines, or any persons other than the Board, to conduct examinations, grant certificates, and generally exercise all the powers and functions by this Act conferred on the Board.

Mine-manager to be holder of certificate.

228. (1.) Every person employed or acting in the capacity of a mine-manager of any mine shall be the holder of a mine-manager's certificate of the first or second class under this Act.

(2.) If such mine is worked from a shaft or inclined plane where winding or pumping machinery is used, such certificate shall be a first-class certificate.

(3.) If such mine is worked from an adit level where no winding or pumping machinery is used, such certificate need only be a second-class certificate.

Battery superintendent's certificate.

229. Every person employed or acting in any mine in charge of the machinery and appliances used therein for the purpose of treating any ore, metal, or mineral by the cyanide-of-potassium process, or such other process as the Governor from time to time declares to be a chemical process within the meaning of this Act, shall be the holder of a battery superintendent's certificate under this Act.

Engine-driver to have certificate.

230. Every person employed or acting in any mine in the capacity of an engine-driver in charge of any engine or winding machinery by means whereof persons are drawn up, down, or along any shaft, pit, plane, or level, or which is used in sinking any shaft, shall be the holder of an engine-driver's certificate under "The Inspection of Machinery Act, 1908."

Dredgemasters to hold certificate.

231. (1.) The master or other person in charge of every dredge employed in any deep or swift-flowing stream shall be the holder of a dredgemaster's certificate issued by the Board.

(2.) The examination shall be in such special subjects as are prescribed by regulations.

Certificates issued under former Mining Acts saved.

232. All certificates issued by the Board of Examiners under any former Mining Act, and in force on the coming into operation of this Act, shall be deemed to have been issued under this Act.

### *Certificates by Examination.*

Application to be examined. Fee.

233. (1.) Every person desiring to obtain by examination a certificate as mine-manager, battery superintendent, or dredgemaster under this Act shall make application to the Board to be examined, and shall forward with his application the fee of one pound :

Provided that if the candidate fails to pass such examination he may be examined again at the end of three months without the payment of any further fee.

## Subjects of examination.

(2.) The examination shall be such as to satisfy the Board that the candidate possesses,—

- (a.) In the case of a mine-manager's certificate, such knowledge and practical experience of the working of a mine as entitles him to a certificate of the first or second class, as the case may be ; and
- (b.) In the case of a battery superintendent's certificate, such knowledge and practical experience of the machinery and appliances used in working the process employed as entitles him to such certificate.

Candidate to supply proof of experience.

234. The candidate shall supply to the Board evidence in writing from his previous employers in proof of the nature and extent of his practical experience ; such experience being in the case of a candidate for a mine-manager's certificate not less than five years' actual employment in the underground workings of a mine, and in any other case actual employment of such nature and for such period as are prescribed.

*Certificates without Examination.*

Certificates from outside New Zealand recognised.

235. On payment of a fee of ten shillings the Board may, without examination, grant any of the certificates aforesaid to any person of good repute who satisfies the Board that he is the holder of a corresponding certificate of equal status granted after examination by any duly constituted and recognised authority outside New Zealand.

*Employment and Disqualification of Certificate-holders.*

When unlawful to work without manager, superintendent, or engine-driver.

236. It shall not be lawful—

- (a.) To carry on mining operations in any mine where more than twelve men are employed unless such mine and operations are under the management and charge of a duly certificated mine-manager ;

Provided that this paragraph shall not apply in the case of a sluicing or dredging claim : nor

- (b.) To use the cyanide-of-potassium process, or any other chemical process within the meaning of this Act, in or in connection with any mine unless such process and the machinery and appliances connected therewith are under the management and charge of a duly certificated battery superintendent : nor



- (c.) To use in or in connection with any mine any engine or winding machinery by means whereof persons are drawn up, down, or along any shaft, pit, plane, or level, or which is used in sinking any shaft, unless such engine or machinery is under the charge of a duly certificated engine-driver.

Name of mine-manager or battery superintendent to be furnished.

237. The owner of any mine wherein a mine-manager or battery superintendent is employed shall, by notification in writing, furnish to the Inspector, and also to the Minister, the name of such manager or superintendent, together with the number and class of his certificate; and shall also at all times cause such name to be kept posted in some conspicuous place at the entrance of the mine.

Deputy manager.

238. (1.) If any mine-manager is incapacitated from performing his duties, or is about to be absent from the mine for more than three days, he or the agent of the mine shall in writing appoint some person, being the holder of a mine-manager's certificate, to act as deputy manager during such incapacity or absence; provided that no such deputy shall act for more than fourteen days unless authorised so to do by the Inspector.

(2.) Notice of every such appointment shall be sent to the Inspector within two days from the date thereof.

[Certificate to be produced to Warden or Inspector.

239. Every person employed or acting as a mine-manager, battery superintendent, or engine-driver in connection with any mine other than a sluicing or dredging claim, or as dredgemaster on any dredge, shall produce his certificate to the Warden or any Inspector of Mines or Inspector of Machinery whenever required by the Warden or any such Inspector so to do.

### *As to the Employment of Persons in Mines.*

Limit of hours of employment in mines.

240. With respect to persons in charge of machinery used in connection with any mine, or with the treatment of the products of any mine, the following provisions shall apply:—

- (a.) Except in cases of breakage, or other special emergency, no such person shall be employed for a longer period than eight consecutive hours at any one time; and between each such period and the next there shall be an interval of at least four hours.
- (b.) Such period of eight hours shall be exclusive of meal-times, and also of the time (if any) occupied in raising or exhausting steam or drawing fires in connection with the machinery in his charge.

- (c.) Such person shall be entitled to holidays at the rate of not less than one whole holiday or two half-holidays for every eight weeks (whether consecutive or not) during which he is employed in charge of such machinery on seven consecutive days in each such week.
- (d.) Such person commits an offence if, whilst in charge of such machinery, property is damaged or destroyed in consequence of his negligence.

Who may not work in mine.

241. No female person of any age, and no male person under the age of fourteen years, shall be employed for hire in any capacity in or about a mine :

Provided that this shall not apply in the case of clerical employment.

Limit of employment of persons under eighteen.

242. No person under the age of eighteen years shall at any time be employed as lander or bracman over any shaft : nor, except in cases of breakage or other special emergency, shall he be employed in any capacity in or about a mine for more than forty-eight hours in any week, or for more than eight hours in any consecutive period of twenty-four hours, exclusive nevertheless of meal-times.

Employment of manual labour in mines on Sunday prohibited.

243. Except in cases where the previous authority in writing of an Inspector of Mines has been obtained, it shall not be lawful for any person or company to directly or indirectly employ any workman on Sunday for hire or reward to do any skilled or unskilled manual labour in or about any mine.

Cases in which Inspector may grant permission.

244. No Inspector of Mines shall give any such authority as aforesaid, except in cases where he is satisfied that the labour cannot be suspended on Sunday without risk of injury to the mine or its operations : and, when giving such authority, he shall in each case state in writing his reasons for granting such authority, and shall specify the number of workmen that may be employed and the nature of their employment, and the period during which such authority shall extend.

Right of appeal.

245. There shall be the right of appeal to the Warden of the mining district from the decision of any Inspector of Mines in respect of the granting or refusing of an authority under the two last preceding sections.

Fine for employing workman on Sunday.

246. If any workman is employed in breach of section two hundred and forty-three, the person or company employing him, and also, where the employer is a company, the mine-manager and every director thereof, are severally liable to a fine not exceeding five pounds :

What a sufficient defence.

Provided that it shall be a sufficient defence to a prosecution if the Court is satisfied that the employment was rendered necessary by reason of breakage or other special emergency involving danger to life or damage to property.

Not to affect other provision.

247. Nothing in sections two hundred and forty-three to two hundred and forty-six hereof shall be construed to affect the operation of section seventeen of "The Police Offences Act, 1908" :

Provided that no person shall be punished twice for the same offence.

Overtime and hours for working underground.

248. (1.) Every workman employed underground in a mine shall be entitled to be paid overtime for the period during which he is employed underground for more than eight hours in any day, counting from the time he enters the underground workings of the mine to the time he leaves the same.

Rate of wages for work on Sundays or holidays.

(2.) Every workman employed on Sundays or holidays in or about any mine or battery shall be entitled to be paid, during the time he is so employed, wages at the rate of one and a half times his ordinary wages.

### *As to Drainage of Mines.*

Owners of mines to contribute to cost of raising water by machinery.

249. In any case where any person employs efficient machinery in raising or draining water from any mine he shall be entitled to receive reasonable contribution towards the expense thereby incurred from the owner of every adjacent mine which is thereby benefited, or which by reason of its mode of working adds to the quantity of water to be thereby raised or drained.

Not liable for accidental stoppage of machinery.

250. (1.) Such person shall not be liable for any damage or injury caused to any such contributing mine by reason of the stoppage of his draining operations if such stoppage is caused by accident to his machinery or any other cause beyond his control, provided that he exercises all due diligence in repairing his machinery and resuming his draining operations.

Liable for other discontinuance unless notice given.

(2.) Excepting as aforesaid, such person shall be liable for all damage or injury caused to any such contributing mine by reason of the discontinuance of his draining operations, unless he gives to the owner of such mine not less than three months' previous notice in writing of his intention to discontinue such operations.

Council may contribute to expenses of draining.

251. The Council of any county or borough may from time to time contribute out of the County or Borough Fund such sums as it thinks fit towards the expenses incurred by any such person in draining mines within or adjacent to the county or borough.

Governor may by regulations fix drainage-areas, constitute Drainage Boards, and prescribe their functions, &c.

252. The Governor may from time to time, as he thinks fit, by regulations or otherwise,—

- (a.) Fix drainage-areas :
- (b.) Constitute and appoint for each drainage-area one or more Drainage Boards :
- (c.) Prescribe with respect to each such Board its powers and functions, the number of its members, their tenure of office, and the mode of their election or appointment :
- (d.) Prescribe the mode in which and the extent to which such Boards may assess drainage rates on land within their drainage-areas :
- (e.) Prescribe the mode in which such assessment may be appealed against, and the procedure on such appeals :
- (f.) Prescribe the mode in which such rates may be levied, collected, and recovered :
- (g.) Prescribe the mode in which contributions under section two hundred and forty-nine hereof may be made, assessed, fixed, and recovered :
- (h.) Prescribe whatever else he deems necessary in order to provide for the effective drainage of mines at the common expense of the holders thereof :
- (i.) Alter or abolish the Thames Drainage Board and drainage-area.

Thames Drainage Board deemed duly constituted.

253. Except in so far as may be otherwise provided by the Governor under the last preceding section, nothing in this Act shall be construed to repeal the Order in Council dated the nineteenth day of January, one thousand eight hundred and eighty-six, or the regulations made thereunder, or to prejudicially affect the Thames Drainage Board as constituted or the drainage-area as fixed by those regulations, or the powers and functions thereby conferred upon that Board.

*As to the Working of Mines, and the Safety of Life and Property therein.*

General rules.

254. The following general rules shall, so far as practicable, be observed in every mine :—

## Ventilation.

- (1.) Ventilation to such extent as is prescribed shall be constantly produced in every mine, to the intent that the shafts, winzes, sumps, levels, and working-places of such mine, and the travelling-roads to and from such working-places, may at all times be in a fit state for working and passing therein : and, in particular,—

(a.) In every case where quartz or other substances are crushed in a dry state, or where rock-drills are used, there shall at all times be used in and about the battery or place where such crushing or drilling is done such appliances as in the opinion of the Inspector will effectually keep the air pure and prevent dust circulating in the place where such operations are being carried on, and for this purpose an adequate supply of water shall be provided :

Provided that where either the owner or the workmen's inspector is dissatisfied with the opinion of the Inspector an appeal shall lie to the Warden, whose decision shall be final.

(b.) For the purpose of insuring full ventilation in underground workings the Inspector may require any level to be connected with the next higher level by an uprise or winze.

## Cyanide and concentrating plants.

- (2.) All cyanide and concentrating plants shall be covered, except where in the opinion of the Inspector covering is not necessary.

## Gunpowder and blasting.

- (3.) Gunpowder or other explosive or inflammable substance shall only be used in a mine as hereunder provided, that is to say,—

(a.) It shall not be stored on the surface of or adjacent to the mine unless in such magazine and in such quantities as may in writing be approved by the Inspector.

(b.) It shall not be stored in the mine in any quantity exceeding what would be required for use during six working-days for the purpose of the mine : and, whilst so stored, it shall be kept in a drive or chamber separated by a door fixed across such drive or chamber at least thirty feet from any travelling-road.

(c.) It shall not be taken for use into the workings of the mine except in quantities actually required during the shift, not exceeding sixteen pounds of gunpowder or ten pounds of nitro compounds or nitro-glycerine compounds in workings where drilling-machines are used, and not exceeding eight pounds of gunpowder or five pounds of nitro-

glycerine compounds in any other working, nor in any case except in securely covered cases or canisters.

(d.) A workman shall not have in use at one time in any one place more than one of such cases or canisters.

(e.) Detonators for blasting shall be kept stored on the surface of the ground in a covered box placed in the powder-magazine apart from other explosives.

(f.) Not more than one hundred detonators shall be kept for service in any mine at one time, and these shall be kept in a covered box in the drive or chamber set apart for the purpose, and shall be only taken out in such quantities as are required for immediate use. Detonators shall not, on any pretence whatsoever, be placed near any travelling-road, pass, or working-face.

(g.) No person shall enter with a naked light a powder-magazine, or any excavation in a mine where powder or other explosive or inflammable substance is stored.

(h.) No iron or steel pricker shall be used in blasting, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine.

(i.) The owner of the mine shall provide copper prickers.

(j.) A charge which has missed fire may be drawn by a copper pricker, but shall not be visited until three hours have elapsed from the time of lighting the fuse of such charge. In no case shall an iron or steel drill be used for the purpose of drawing or drilling out such charge, nor shall any charge be drawn where nitro compounds or nitro-glycerine compounds or detonators have been used :

Provided that this paragraph shall not apply to charges fired by an electric current.

(k.) No person under the age of eighteen years shall be allowed to charge a hole with explosives or to fire any charge.

(l.) No drill-hole shall be bored within a distance of three feet directly below or within one foot in any other direction from the site of a previously exploded charge of any nitro compound or nitro-glycerine compound, and no drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro compound or nitro-glycerine compound has been previously exploded.

(m.) In all cases where the fumes arising from the explosion of any nitro compound or nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralised or rendered innocuous by the person in charge of the blasting

operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations.

(n.) Miners employed in blasting with nitro compounds or nitro-glycerine compounds shall be supplied by their employer with the means of thawing such compounds, and with the means of producing sulphate-of-iron spray.

Manholes in self-acting or engine planes.

- (4.) Every underground plane on which persons travel, and which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping-places and the ends of the plane, and shall be provided in every case (at intervals of not more than twenty yards) with sufficient manholes for places of refuge.

Spaces in horse-roads.

- (5.) Every road on which persons travel underground, where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided (at intervals of not more than one hundred yards) with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length and of at least three feet in width between the wagons running on the tramroad and the side of the road.

Keeping spaces clear.

- (6.) Every manhole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in such manhole or space so as to prevent access thereto.

Fencing off entrance to shafts.

- (7.) The top and all entrances between the top and bottom of every working or pumping shaft shall be properly and securely fenced or securely covered, but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose of repairs or other operations if proper precautions are used.

Abandoned or disused shaft.

- (8.) Every abandoned or disused shaft shall be fenced or securely covered in, and its position indicated on the surface by a post or cairn of stones, or such other permanent distinguishing-mark as an Inspector thinks sufficient.

Horizontal bar when fence or cover temporarily removed.

- (9.) Where a fence or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations, a strong horizontal bar shall be securely fixed across such entrance, not less than three nor more than four feet from the floor of the brace chamber or drive, as the case may be.

Securing of shafts.

- (10.) Where, in the opinion of the Inspector, the natural strata are not safe every working or pumping shaft shall be securely cased, lined, or otherwise made secure; for which purpose an ample supply of sound good timber shall be kept on the ground ready for immediate use.

Protection of drives.

- (11.) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein, and a light shall be kept burning in the chamber of every level whilst any person is working there.

Division of shafts.

- (12.) Where one portion of the shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material, the first-mentioned portion shall be cased or otherwise securely fenced off separate from the last-mentioned portion.

Signalling.

- (13.) Every working-shaft in which a cage is used, and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam or other machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in work between the top and the bottom of the shaft to the top, and thence to the engine-room, and from the engine-room and top to the bottom of the shaft and to every entrance for the time being in work between the top and the bottom of the shaft; and no verbal signals or communications shall be made up or down a shaft exceeding fifty yards in depth, in which cages are used, except through speaking-tubes or telephones in the pump-compartment of such shaft.



## Knowledge of signals.

- (14.) Every person employed in a mine shall make himself acquainted with the system of signals used in such mine, and a line or some other appliance shall be provided in each shaft to admit of danger-signals being communicated to the engine-driver from any portion of such shaft.

## Clear view for engine-driver.

- (15.) A clear view shall be kept for the engine-driver between his station and the shaft at the surface brace.

## All modes of signalling to be clear and distinct.

- (16.) All methods of signalling in mines to indicate that men or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted in a clear and legible form on framed boards, one of which shall be placed at the chamber at the bottom of the workings in the shaft, and the other at the brace at or near the top of the shaft.

Such methods shall be subject to the approval of the Inspector, and shall also be subject to such alterations and amendments as may from time to time be indicated by the Minister on the report of the Inspector.

## Signalling along drives in alluvial mines.

- (17.) Whenever any underground work is being performed in alluvial mines at greater distances than two hundred feet from the shafts, proper means shall be provided for communicating along the lower drives of such mines distinct and definite signals to and from the plats at the bottom of the shafts, and to and from all places in which men are at work.

## Cover overhead.

- (18.) Every cage shall have a sufficient cover overhead when used for lowering or raising persons in any working-shaft. Such cage-cover shall be constructed of iron not less than one quarter of an inch thick, and shall be securely hung on hinges and fitted with sloping sides, so as to be readily lifted upwards by persons within the cage. Wherever practicable all persons working in shafts shall be protected, by means of a roof or other suitable appliance overhead, from the fall of material down such shafts.

## Regulating descent of persons in cages.

- (19.) The maximum number of persons that may lawfully be lowered or raised in one cage shall not exceed four, or such greater number as the Inspector, having regard to the size and strength of the cage, gear, and machinery, specially

authorises by writing under his hand : and no person shall be permitted to get off or on a cage until it has settled on the beams on the surface of the mine, or reached the bottom or level where it is intended to stop.

Materials not to be sent with men.

- (20.) No timber, tools, rails, sprags, or other material, except for repairing the shaft, shall be placed in the same cage in which men are being lowered or raised.

Braces to be covered.

- (21.) Every brace shall be properly covered to protect the workmen from the inclemency of the weather.

Proper ladder or footway.

- (22.) In every shaft in which a whim, whip, or windlass is used, and in every working pit or shaft where no machinery is used, a proper ladder or footway shall be provided for the use of persons employed therein.

Chains.

- (23.) A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane, except in the case of short coupling-chains attached to the cage or load, and in such case two single-linked chains of uniform size shall be used to each coupling.

Ropes and chains to be tested.

- (24.) Before any rope or chain is used in the shaft it shall be tested and proved to be equal to carrying twice the weight of the ordinary load ; and in mines where men are lowered or raised in shafts the ropes and chains shall periodically, at intervals of not more than three months, be tested and proved to be equal to carrying twice the weight of the ordinary load.

Slipping of rope on drum.

- (25.) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances, as may be sufficient to prevent the rope from slipping.

Brake.

- (26.) There shall be attached to every machine worked by steam, water, electrical, or mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) to show to the person who works the machine the position of the cage or load in the shaft.

Appliances to prevent sudden fall of cage.

- (27.) Every cage shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also to prevent its coming into contact with the poppet-heads. Before any such cage is first used it shall be tested in the presence of an Inspector, and it shall not be used unless and until he gives a certificate in writing that it is fitted with such appliances as aforesaid and is in fit working-order.

Spring catches or tumblers to be affixed to skids.

- (28.) Spring catches or automatic or self-acting doors or tumblers of a suitable kind shall be affixed to the skids or guides below the poppet-heads of every shaft in which a cage is used, to prevent the fall of such cage down the shaft when detached from the rope or chain by overwinding or otherwise.

Protection to person descending shaft by rope.

- (29.) In any shaft exceeding twenty feet in depth, in which cages are not used, no person shall descend or ascend by the aid of machinery unless (in addition to the use of the loop, cross-bar, or other appliance) he is securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms, and such method of staying shall be used by every person who finds it necessary, in the execution of his duty, to descend or ascend a shaft on top of the cage-covers.

Inclination of ladders.

- (30.) A ladder permanently used for the ascent or descent of persons shall not be fixed in a vertical or overhanging position, except in shafts used exclusively for pumping, but every such ladder shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every ladder, whether vertical, overhanging, or inclined, shall have substantial platforms at intervals of not more than thirty feet, and a suitable fixture for a hand-grip shall be placed above such ladder for the use of persons ascending or descending. In no case shall new vertical or overhanging ladders be constructed, either in substitution for old ones or otherwise.

Dressing-rooms.

- (31.) If more than four persons are employed in the mine below ground in one shift, sufficient accommodation shall, if ordered by the Inspector, be provided above ground near the principal entrance of the mine, and not in the engine-house or boiler-house, for enabling the persons employed in the

mine to conveniently dry and change their dresses, and in no case shall men be allowed to change their dresses upon a boiler.

Control of steam-engine.

- (32.) No person under the age of twenty-one years shall be placed in charge of or have the control of any steam engine or boiler.

Absence from machinery in use.

- (33.) No person in charge of machinery shall, under any pretext whatever, unless relieved by a competent person for that purpose, absent himself or cease to have continual supervision of such machinery during the time it is in use.

Machinery to be examined.

- (34.) All machinery in which steam, water, electricity, or air, or any two or more of them, are used as motive power shall be subject to the provisions of "The Inspection of Machinery Act, 1908," so far as the same reasonably apply, and no such machinery, erected or fitted up, shall be employed until it has been examined by an Inspector appointed under that Act, and certified by him to be in proper and fit working-condition.

Machinery to be kept in good order.

- (35.) All boilers, compressors, engines, gearing, and all other parts of machinery, when used for any mining purpose, or for the treatment of ores, or for the treatment of the products of any mine, shall be kept in a fit state and condition.

Fencing machinery.

- (36.) Every fly-wheel, and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform other than a tramway worked by ropes, shall be kept securely and safely fenced.

Gauges to boiler and safety valve.

- (37.) Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and also with a proper safety valve; and at least once in every six months, or oftener if required, every boiler shall be thoroughly cleansed; and once in every twelve months every such boiler shall be subjected to an hydraulic test, and the date and full description of every such test and cleansing shall be entered in a book to be kept by the mine-manager or other person in charge of the mine, and the entries in such

book shall on demand be open to the persual of any Inspector under this Act or under "The Inspection of Machinery Act, 1908."

Smoke not to be allowed to escape.

- (38.) The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into any part of such workings, nor in any manner other than by means of an airtight flue conducting such smoke directly from the boiler or furnace into a vertical shaft cut in the rock up to the surface of the ground to the open air, or built up to the surface as aforesaid with bricks and cement in such manner as to be completely airtight.

Wilful damage.

- (39.) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act.

Abandoned shafts not to be damaged.

- (40.) Except with the consent of the Minister, no person shall, after any shaft or underground workings have become disused for mining purposes, wilfully damage or render useless such shaft or workings by the removal of any fencing, covering, casing, lining, ladder, platform, or other appliance therein.

Boring-rods to be used.

- (41.) In every working in a mine approaching a place likely to contain a dangerous accumulation of water, boring-rods shall be kept and used for the purpose of perforating the ground twenty feet in advance of or near or at any angle from such working; and no drive, gallery, or other excavation shall be made within what, in the opinion of the Inspector, is a dangerous distance of such accumulation of water.

Mines liable to flood to have escape-drives.

- (42.) In every mine which in the opinion of an Inspector is liable to an inundation or inburst of water, such additional rises, chambers, drives, and other workings shall be constructed as are necessary and as are prescribed by the Minister or the Inspector, in order to insure the escape of workmen from the lower workings or their safety in the mine during the period of any inundation or inburst of water.

Ladders to be provided in each rise.

- (43.) Ladders (and, when necessary, convenient platforms connected therewith) shall be provided in each rise, jump-up, or passage giving access to workings at a higher level in a mine, and a notice shall be posted at the foot of each such rise, jump-up, or passage stating the height of such rise, jump-up, or passage to the chamber or drive above.

Mine-manager to examine safety appliances, buildings, &c.

- (44.) The mine-manager of the mine, or other competent person appointed for such purpose, shall once at least in every twenty-four hours examine the state of all safety appliances or gear connected with the cages, winding-ropes, or shafts; and the manager shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mine: and every such manager and person forthwith after every such examination shall record in writing, in a book to be kept for that purpose, his opinion as to their condition and safety, and as to any alterations or repairs required to insure greater safety to the persons employed in the working of such mine.

Condemned appliances to be removed.

- (45.) Such book shall, on demand, be open to the inspection and perusal of any Inspector of Mines or Inspector of Machinery; and every such safety appliance or gear, if condemned by any such Inspector, shall be forthwith removed or made fit to his satisfaction.

Books and copy of Act to be kept at mine.

- (46.) Such book, or a copy thereof, and a copy of this Act, and of every amendment thereof and of the regulations thereunder, shall be kept at the office at the mine, or, if there is no office, at some convenient place near the mine, and any Inspector and any person employed in the mine may at all reasonable times inspect and take copies thereof or extracts therefrom.

Offence by mine-manager.

- (47.) Any mine-manager, or any person in charge of or giving orders or directions relating to the carrying-on of any mining operations in or about a mine, who contravenes or does not comply with any of the general rules in this section commits an offence, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance.

Copy of this section to be publicly posted.

- (48.) A printed copy of this section shall be posted in the office and on some building or board in a conspicuous place in connection with every mine.

Certain provisions to apply to dredges.

255. The provisions of paragraphs forty-four to forty-six of the last preceding section shall, *mutatis mutandis*, extend and apply to dredges and dredgemasters.

Misusing or not using sanitary appliances.

256. Every person employed in a mine who damages, or misuses, or fails to use when necessary, any appliance for the prevention of dust, fumes, or smoke, or any other sanitary appliance provided by the owner of the mine, is liable to a fine not exceeding ten pounds.

Manager may institute proceedings in certain cases.

257. Notwithstanding anything in section two hundred and eighty-three hereof, proceedings for the recovery of a fine in respect of the breach of any of the general rules prescribed by this Act may be instituted by the mine-manager of the mine at which the breach was committed.

#### *As to Plans and Inspection of Mines.*

Plans of underground workings of mine to be kept.

258. (1.) The owner of every mine where more than twelve men are employed—

- (a.) Shall keep at the office at the mine a full and accurate plan of the underground workings of such mine, made to a scale of not less than one inch to two chains by a duly certificated mine-manager, or a duly qualified mining engineer, or a duly authorised surveyor, and showing the longitudinal sections of such workings on the different lodes and levels: and also
- (b.) Shall at all reasonable times produce such plan to and permit the same to be copied or examined by an Inspector, or by any other person whom any Inspector or Warden authorises in that behalf; and also
- (c.) Shall, whenever requested by such Inspector or other person so to do, accurately mark on such plan the progress of the workings of the mine up to the time of such request, and shall allow such Inspector or person to examine and take a copy or tracing thereof: and also
- (d.) Shall forward to the Inspector, once in every six months, a copy or tracing of such plan, with the workings of the mine up to one month previously marked accurately thereon.

Inspector may require plan to be made.

(2.) If default is made in duly keeping or producing or marking or forwarding such plan as aforesaid, the Inspector may, by notice in writing delivered at the office of the mine or otherwise (whether a penalty for such default has or has not been inflicted), require the owner to cause such plan to be made, produced, marked, or forwarded, as the case may be, to him within a reasonable time, and it shall be the duty of such owner to comply with such request at his own expense.

Check survey on default or if plan incorrect.

(3.) If default is made in duly complying with such request, or if the Inspector has reason to think that any plan produced or forwarded to him is incorrect, he shall report the fact to the Minister, who, if he thinks fit, may cause a check survey to be made: and, unless the plan produced or forwarded as aforesaid proves to be correct in every material respect, the owner shall be liable to pay all costs and charges for making such check survey or in connection therewith, and such costs and charges may be recovered as a debt due to the Crown.

Further plans to be kept in mines liable to be flooded.

259. If in the opinion of the Minister any mine contains or is likely at any time to contain dangerous accumulations of water, the following provisions shall apply:—

- (a.) The Minister may, by notice in writing addressed in general terms to the person in charge of such mine, and delivered at the mine, order that an accurate plan and sections of the shafts, drives, levels, and all other underground workings of such mine be made by the owner to such scale as aforesaid, and a copy or tracing thereof deposited by him in the office of the Warden nearest to such mine within one month from the date of such order, or such extended time as in special circumstances the Warden may authorise.
- (b.) It shall be the duty of the owner and mine-manager of such mine to duly comply with such order, and also with the succeeding provisions of this section.
- (c.) All additions of any kind to the underground workings of such mine made after the date of such order shall, at such periodical intervals as on the report of the Inspector the Warden from time to time prescribes, be correctly marked upon the original plan and sections, and also upon the copy or tracing deposited in the Warden's office:

Provided that such periodical intervals shall in no case be longer than two months or shorter than one week.

- (d.) Any person, with the sanction in writing of the Minister or the Warden, shall be allowed at any time to inspect the deposited copy or tracing of such plan and sections; and



any Inspector under this Act shall be permitted at any time to examine the plan and sections of the underground workings of the mine.

Provision for protecting mines at Thames from flooding.

260. In order to prevent damage being done to the mining industry on the Thames Goldfield by the flooding of claims with water consequent on the reckless prosecution of mining operations seawards, the following provisions shall apply :—

- (a.) It shall not be lawful for any person to in any way carry on mining operations under the sea on the Thames Goldfield, or, in carrying on mining operations, to in any way cut into what is known as “ the seaward slide,” between Shellback Creek and the Kanaeranga River, on the Thames Goldfield, unless in each instance before beginning such operations he submits to the Inspector a plan thereof and obtains his consent thereto in writing.
- (b.) Such consent may be given on such terms and conditions as the Inspector thinks fit to impose, and shall be deemed to be subject to the special condition that he may withdraw such consent at any stage of such operations.
- (c.) It shall be the duty of the Inspector to withdraw such consent whenever, in his opinion, the further prosecution of any such operations may lead to an influx of water, whether from the sea or otherwise.
- (d.) If the Inspector is at any time of opinion that any persons’ mining operations are being prosecuted so near to the said slide as to be likely to lead to an influx of water, whether from the sea or otherwise, he may, by notice in writing, require such person to stop such operations, and it shall be the duty of such person to forthwith stop the same accordingly.
- (e.) If any person carries on such operations without such consent, or in breach of any of the terms or conditions subject to which such consent was given, or continues to prosecute any such operations after the withdrawal of such consent or after receiving notice from the Inspector to stop the same, he commits an offence, and is liable to a fine not exceeding five hundred pounds, and is also civilly liable for all damage done to any person’s claim by the influx of water consequent on the committal of such offence.

Inspector to give notice of dangerous or defective matters not provided for.

261. In any case where any Inspector finds any mine or any part thereof, or any machine, plant, matter, thing, or practice in or connected therewith, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, and the case is not elsewhere sufficiently provided for by any express provision of this Act, the following special provisions shall apply :—

- (a.) The Inspector shall, by requisition in writing addressed in general terms to the person in charge of the mine, and delivered at the mine, report to the owner thereof the nature of such danger or defect, together with his reason for holding that the same exists, and require that the matter complained of be forthwith remedied. He shall also report the same to the Minister and to the Warden.

#### Objections.

- (b.) If the owner objects to comply with such requisition he may, within seven days after the delivery thereof as aforesaid, send his objections in writing, stating the grounds of his objections, to the Warden, and shall also send a copy of the same to the Inspector, who shall report on the same to the Warden.
- (c.) The Warden shall fix a time for the hearing of the objections, and shall cause notice to be given to the owner and to the Inspector of the time so fixed.
- (d.) On the hearing the Warden may by order confirm, reverse, or modify the requisition as he thinks fit, and such order shall be final and binding on all parties.
- (e.) If the owner fails to comply with the requisition or order, and such failure continues for fourteen days after the expiration of the time for objection or after the date of the order, as the case may be, he commits an offence.
- (f.) In any proceedings in respect of such offence the Court, if satisfied that the owner has taken active measures for complying with the requisition or order, but has not with reasonable diligence been able to complete the works, may adjourn such proceedings, and if the works are completed within a reasonable time no fine shall be inflicted.
- (g.) No person shall be deemed to be precluded by any contract or agreement from doing such acts as may be necessary to comply with any of the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing such acts.

Employees to report unsafe appliances or dangerous matters.

262. For the purpose of preventing accidents in mines the following provisions shall apply:—

- (a.) Every person employed in or about any mine shall (before commencing work and whilst at work) satisfy himself of the safety of any tubs, chains, tackle, windlass, ropes, or other appliances he may have to use, and shall refrain from using anything which is unsafe.

- (b.) Every such person who witnesses or becomes aware of any matter which may be likely to produce danger of any kind in the mine shall forthwith notify the same to the person (if any) under whose immediate directions or control he may be; or, if there is no such person, then to the person in charge of the mine.
- (c.) Every person in sub-charge of and employed in mining operations in any part of the mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed.

Inspector to make inquiry into complaints.

263. Immediately upon any person employed in a mine making a complaint under this Part of this Act to any Inspector, it shall be the duty of such Inspector to make inquiry into the matter of such complaint, and to take such other steps as he deems necessary to investigate the same, and the name of the informant shall not be divulged by the Inspector.

Inspection of mine by workmen.

264. (1.) Where workmen are employed in a mine, or any of the workmen employed in a mine are members of a society formed in connection with the mining industry and registered under "The Industrial Conciliation and Arbitration Act, 1908," as an industrial union of workers, such workmen or society may, at their own cost, appoint two persons (whether employed in the mine to be inspected or not) to inspect the mine:

Provided that where the men so appointed to inspect the mine are not employed therein they shall produce, prior to each inspection, a certificate from a Magistrate or Justice that he is satisfied with the *bona fides* of the application for inspection.

(2.) With respect to such inspection the following provisions shall apply:—

- (a.) The inspecting workmen shall have full liberty to visit and inspect every part of the mine, its machinery and workings, once at least in every month.
- (b.) The mine-owner and mine-manager may accompany the inspecting workmen in their inspection, and shall give them full and free facilities for the inspection.
- (c.) The inspecting workmen shall make a full and faithful report in writing of the result of the inspection.
- (d.) Such report shall be signed by the inspecting workmen, and they shall furnish a copy thereof to the owner or manager of the mine, who shall cause the same to be recorded in a book kept at the mine.

- (c.) Such book shall be kept at the office at the mine, and any Inspector under this Act, or workman employed in the mine, or officer of the aforesaid society may at all reasonable times inspect such book, and take copies of or extracts from the reports recorded therein.

*As to Accidents in Mines.*

Negligence an offence if person injured or killed.

265. Every person who, by himself, his agent or servant, is guilty of negligence by which any person is injured or killed commits an offence.

Official inquiries in case of accidents.

266. (1.) Where, in the opinion of the Inspector, an accident in a mine resulting in the death or injury of any person was caused, directly or indirectly, by the non-observance by the mine-manager, battery superintendent, dredgemaster, or engine-driver of the mine of any of the provisions of this Act or of any regulation thereunder, or by reason of his negligence, the Inspector shall apply to the Warden to hold an inquiry into the matter.

(2.) The Warden shall fix a time and place for the holding of such inquiry, and shall cause not less than seven days' notice thereof to be given to the person whose non-observance or negligence is to be inquired into.

(3.) Such notice shall require the person aforesaid to appear at the time and place so fixed, and then and there to produce his certificate to the Court.

(4.) The inquiry shall be held before a Court consisting of the Warden sitting with two Assessors (appointed by the Warden) who shall be the holders of first-class certificates as mine-managers.

(5.) The Court shall have all the powers of a Warden's Court.

(6.) If the Court finds that the accident was caused, directly or indirectly, by the non-observance by the holder of any certificate under this Act of any of the provisions of this Act or of any regulation thereunder, or by reason of his negligence, it may disqualify him by cancelling his certificate or by suspending it for such period as the Court thinks fit : and during the period of such disqualification the person so disqualified shall, for all the purposes of this Act, be deemed not to be the holder of a certificate.

(7.) There shall be the like right of appeal against any order of the Court under this section as if it were an order of the Warden.

(8.) Notice of every such disqualification shall be forwarded by the Warden to the Minister, and shall be published in the *Gazette*.

Presumption of negligence of owner.

267. Any accident occurring in a mine shall be *prima facie* evidence that such accident occurred through some negligence on the part of the owner.

## Compensation recoverable in case of accidents.

268. (1.) If any person employed in or about any mine suffers any injury in person, or is killed, owing to the non-observance in such mine of any of the provisions of this Act, such non-observance not being solely due to the negligence of the person so injured or killed, or owing in any way to the negligence of the owner of such mine, his agents or servants, the person so injured, or his personal representatives, or the personal representatives of the person so killed, may recover from the owner compensation by way of damages as for a tort committed by such owner.

(2.) The amount of such compensation, with the costs of recovering the same when determined, shall constitute a charge on the mine and mining plant in or about which such person was so employed, and all charges arising under the provisions of this section shall, as between themselves, be paid rateably.

(3.) Such compensation may be recovered under the provisions of "The Workers' Compensation for Accidents Act, 1908," or "The Deaths by Accidents Compensation Act, 1908," or "The Employers' Liability Act, 1908," whichever is applicable, according to the circumstances of each particular case; subject, however, that notice of injury having been sustained may be given under the last-mentioned Act at any time within three months from the occurrence of the accident causing the injury, instead of within six weeks as in the said Act mentioned.

(4.) Nothing in this section shall take away from any person any right to take proceedings in respect of a claim for compensation for injury or death by accident which he may have under any Act other than this, if he prefers to proceed under such Act, but in such case he shall forfeit any right he may have to take proceedings under this section.

When accident occurs mine not to be interfered with.

269. In every case where an accident occurs in a mine the following provisions shall apply:—

(a.) Except for the sole purpose of saving life or preventing further injury, no portion of the mine shall be interfered with after such accident until inspected by the Coroner's jury or the Inspector, or some other person appointed by the Minister.

\*  
Notice.

(b.) If any person is seriously injured, the mine-manager shall forthwith give a written notice thereof to the Inspector, and a telegraphic notice thereof to the Minister and to the Warden, and to the Inspector, and to the workmen's inspectors appointed under section two hundred and sixty-four hereof.

## Report.

- (c.) The Warden, or, in his absence, the Registrar or Clerk, may appoint some competent person, in the absence of the Inspector, to examine the place where such accident occurred, and to report to him on the state and condition of such mine.
- (d.) A copy of such report shall be forwarded forthwith to the Minister; and any examination of a mine made as in this section prescribed shall be deemed to be an examination made by an Inspector.
- (e.) The Inspector or other authorised person making the examination shall give notice to the workmen's inspectors appointed under section two hundred and sixty-four hereof of the time when he will visit the mine; and such workmen's inspectors shall be permitted to accompany the Inspector or other authorised person on such visit, and shall report the result thereof in the manner provided by the said section two hundred and sixty-four.

Coroners' inquests on deaths from accidents in mines.

270. With respect to every Coroner's inquest on the body of any person whose death may have been caused by any accident in a mine the following provisions shall apply:—

- (a.) No person having a personal interest in or employed in or in the management of the mine in which the accident occurred shall be qualified to serve on the jury empanelled on the inquest.
- (b.) It shall be the duty of the constable or other officer summoning the jury not to summon any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or sit on the jury.
- (c.) Whenever practicable, one-half of the jurymen shall be miners.

*General Provisions as to Inspection.*

Inspectors to inspect mines and see Act carried out.

271. Without in any way affecting any of the specific provisions hereinbefore contained, it is hereby declared as follows:—

Powers hereunder.

- (a.) It shall be the duty of the Inspector generally to see that the provisions of this Act are complied with, and from time to time to visit and inspect mines and all machinery used therein other than steam engines and boilers; and, for the purpose of enabling him to more effectually perform his duties and functions under this Act, he shall have all the powers

of an Inspector of Machinery under "The Inspection of Machinery Act, 1908," and that Act shall be construed accordingly.

- (b.) In the performance of his duties and functions under this Act the Inspector, or any person appointed by him in writing, shall at all convenient times have full and free access to any such mine or machinery, and may use all convenient means and appliances belonging thereto or connected therewith; and it shall be the duty of the owner of such mine or machinery, and all persons in any way employed in or about the same, to afford such assistance as is reasonably required for facilitating such inspection.
- (c.) Every person commits an offence who refuses to permit the use of such means and appliances, or to render such assistance, or who obstructs the Inspector or the person so appointed by him as aforesaid in making any such visit or inspection.
- (d.) All costs incurred by the Inspector, or which may be awarded against him in any proceedings under this Act, shall be charged upon and be paid out of the goldfields revenue receivable in the district in which the subject-matter of the proceedings is situate or arises, to whomsoever such revenue may be payable; and in no case shall the Inspector be personally liable for such costs.

#### Powers of Government Geologist.

- (c.) The Minister may from time to time empower any Government Geologist, or other officer of the Mines Department, to enter and inspect any mine, and every such officer whilst so empowered shall have all the authority of an Inspector.

#### Powers of Health Officers.

272. Where it appears to an Inspector that any sanitary defect in a mine may be more effectually remedied or dealt with under "The Public Health Act, 1908," he shall give notice thereof to the District Health Officer, who shall thereupon take such measures as may be necessary to effectually remedy such defect.

#### Powers of Inspectors of Machinery not affected.

273. Nothing in this Act shall be deemed to abridge any of the provisions of "The Inspection of Machinery Act, 1908," or any of the duties, functions, or powers of Inspectors under that Act in relation to the inspection in mines of machinery and boilers which are subject to the operation of that Act.

#### Right of shareholder to enter mine and inspect workings.

274. (1.) Any person owning any share or interest in any mine, or in any mining company owning or working any mine, shall be entitled

at any time between the hours of noon and one o'clock in the afternoon of any working-day to enter such mine, with or without an expert, and to inspect the same and all the workings and mining operations therein, and for such purpose the said person and expert shall have at all times free ingress, egress, and regress in respect of such mine.

(2.) Every manager of a mine, or director or manager of any company as aforesaid, commits an offence if in any way directly or indirectly he prevents, obstructs, or delays any person or expert as aforesaid from exercising the rights conferred upon him by this section.

*As to Penalties.*

Penalty for offences.

275. Every person who in any way contravenes or fails to duly comply with any of the provisions of this Part of this Act commits an offence, and is liable—

(a.) To a fine not exceeding fifty pounds if he is convicted in the capacity of owner of any mine, or mine-manager, underground manager, battery superintendent, or person in charge of or giving orders or directions relating to the carrying-on of any mining operations in any mine, and the burden of proving that he does not hold that capacity shall rest upon him; and

(b.) To a fine not exceeding ten pounds if he is convicted in any other capacity than as aforesaid.

Payment of fine to person injured.

276. If such fine is in respect of an offence by reason whereof any person is injured or killed, the whole or any part of such fine may, by the convicting Court, be awarded to such person or, as the case may be, to his personal representatives, and such award shall be in addition to any right of action such person or personal representatives may have under this Part of this Act or otherwise.

\* \* \* \* \*

EXTRACTS FROM "THE POLICE OFFENCES ACT, 1908."  
1908, No. 146.

\* \* \* \* \*

Short Title.

1. (1.) The Short Title of this Act is "The Police Offences Act, 1908."

\* \* \* \* \*

*Combinations affecting the Supply of Light or Water.*

Combination affecting the supply of gas, electric light, or water.

24. (1.) No person employed by a local authority, or by any company or contractor upon which or upon whom there is imposed by



statute the duty, or which or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas, electric light, or water, shall combine or agree with any other person or persons to leave, without due notice, the employ of such local authority, company or contractor, if the effect of such combination or agreement may reasonably be expected to be that the inhabitants of such city, borough, town, or place, or part thereof respectively, will be for any time deprived wholly or to a great extent of their supply of gas, electric light, or water.

(2.) "Due notice," for the purpose of this section, means at least fourteen days' notice in writing.

(3.) Every person who combines or agrees in a manner forbidden by this section is liable to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month.

\* \* \* \* \*

## EXTRACTS FROM "THE PUBLIC CONTRACTS AND LOCAL BODIES' CONTRACTORS ACT, 1908."

1908, No. 154.

AN ACT to consolidate certain Enactments of the General Assembly relating to Public Contracts, and restraining the Members of Local Bodies from contracting with such Bodies.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

### Short Title.

1. (1.) The Short Title of this Act is "The Public Contracts and Local Bodies' Contractors Act, 1908."

### Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto.

(3.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

### Interpretation.

2. In this Act, if not inconsistent with the context.—

\* \* \* \* \*

"Public contract" means every contract exceeding the value of twenty pounds entered into pursuant to public tender by or on behalf of His Majesty's Government in New Zealand, or any Education Board, Harbour Board, or local authority,

as contractee, with any person, firm, or company, as contractor, for the construction, extension, or repair of any public or other work, or the supply or performance of any service, involving the employment of skilled or unskilled manual labour.

*Public Contracts.*

Usual length of working-day and rates of wages implied in public contracts

3. In the employment of every description of skilled or unskilled labour for the purposes of any public contract, the contractor shall at all times be deemed to have agreed with his workers to observe such length for the working-day, and pay such rates of wages or other remuneration for working-days and for overtime respectively, as are generally considered in the locality to be usual and fair for the description of labour to which they relate, such length being at no time greater nor such rates lower than those fixed for the same description of labour by or under any award or order of the Court of Arbitration existing at the time the contract was entered into, whether the contractor was or was not a party thereto or bound thereby :

Provided that nothing herein shall limit or affect the rights of the worker under any agreement with the contractor for the observance of a shorter length or the payment of a higher rate than those referred to in this section.

Working-day not to exceed eight hours.

4. In every public contract the maximum length of the working-day to be observed in the case of each description of skilled or unskilled manual labour employed by the contractor in carrying out the contract shall not exceed eight hours exclusive of overtime.

Incorporation thereof in public contracts.

5. The provisions of the two last preceding sections shall be deemed to be incorporated in every public contract.

No contracting out.

6. It shall not be competent to any worker to contract himself out of the benefit of the foregoing provisions of this Act.

Penalty.

7. Every contractor who commits a breach of any of the foregoing provisions of this Act is liable, in addition to any other liability he may thereby incur under the contract, to a fine not exceeding ten pounds for each offence.

\* \* \* \* \*

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1885, No. 48.—“ The Local Bodies' Contractors Act, 1885.”

1900, No. 5.—“ The Public Contracts Act, 1900.”

## THE SCAFFOLDING INSPECTION ACT, 1908.

1908, No. 171.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Inspection of Scaffolding.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is “The Scaffolding Inspection Act, 1908.”

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All districts, appointments, regulations, Orders in Council, orders, directions, notices, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Interpretation.

2. In this Act, if not inconsistent with the context,—

“Gear” includes ladder, plank, rope, fastening, hoist, block, pulley, hanger, sling, brace, and other movable contrivance of a like kind :

“Inspector” means an Inspector appointed under this Act :

“Minister” means the Minister of Labour :

“Scaffolding” means any structure or framework used, or intended to be used, for the support of workmen in erecting, demolishing, altering, repairing, cleaning, painting, or carrying on any other kind of work in connection with any building, structure, ship, or boat ; and includes any swinging stage used or intended to be used for any of the purposes aforesaid :

## Inspectors and districts.

3. The Governor may from time to time appoint Inspectors to carry out the provisions of this Act and define the district within which each Inspector shall exercise his functions :

Provided that no person shall be appointed an Inspector unless he has had at least four years' experience in the erection of scaffolding.

Notice to be given before scaffolding erected.

4. (1.) No person shall set up or erect any scaffolding exceeding sixteen feet in height from the ground, or from the structural base upon which it is erected, in any district wherein an Inspector has been appointed without having first notified such Inspector of his intention so to do.

(2.) Such notification shall be in writing, and shall be delivered at the office of the Inspector at least twenty-four hours before the time fixed for the setting-up or erection of the scaffolding, and such notice shall be deemed to cover all scaffolding erected on or about the building or buildings for which such notice has been given :

Provided that no notice shall be required to be given for the erection of any scaffolding on any ship or boat.

(3.) Every person who commences to set up or erect any such scaffolding without having first given such notification, or until such period of twenty-four hours has elapsed, is liable to a fine not exceeding twenty pounds.

(4.) In any case of emergency arising from damage caused by lightning, explosion, fire, rain, or storm it shall not be necessary to allow any period to elapse after giving the notice required by this section.

Scaffolding and gear to be in accordance with regulations.

5. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations relating to scaffolding and gear used in connection therewith.

(2.) All scaffolding, and all gear used in connection therewith, shall comply with the requirements of such regulations, and shall be set up, erected, maintained, and used in accordance therewith.

Powers of Inspector.

6. (1.) Whenever it appears to an Inspector—

(a.) That the use of any scaffolding, or any gear used in connection therewith, would be dangerous to life or limb ; or

(b.) That with regard to any scaffolding, or any gear used in connection therewith, erected, or used, or in course of erection, the requirements of the regulations are not being complied with—

he may give such directions in writing to the owner or person in charge of the scaffolding or gear as he deems necessary to prevent accidents, or to insure a compliance with the regulations, and such owner or person shall forthwith carry out such directions.

(2.) Whenever any Inspector gives any directions as aforesaid, he may also, at the same time or subsequently, order any persons

forthwith to cease to use or work in connection with any scaffolding or gear until such directions have been complied with.

Appeal to Minister.

(3.) There shall be an appeal to the Minister against the directions of any Inspector under this section, and notice in writing of such appeal shall be lodged at the office of the Inspector within twenty-four hours from the receipt of such directions.

(4.) The Minister may hear such appeal, or appoint some person to do so, and such Minister or person appointed by him shall make such order as may be deemed right and proper, and such order when made shall be final.

Penalties.

(5.) Every person is liable to a fine not exceeding twenty pounds who—

- (a.) Fails to comply with any direction given to him by an Inspector in pursuance of this section ; or
- (b.) Fails to comply with any order given to him by an Inspector to cease to use or work in connection with any scaffolding or gear ; or
- (c.) Fails to comply with any order made by the Minister or person appointed by him as aforesaid.

Length of ladders to be used in building.

7. (1.) When any building is in the course of erection, repair, or structural alteration, it shall not be lawful for any person having the control or management of such operations to permit to be used in connection therewith—

- (a.) Any ladder which does not when in use extend at least five feet beyond the highest level to which such ladder is intended to afford immediate access ; or
- (b.) Any lift which is not fitted with an automatic catch of a design approved by the Minister, or with such other appliances as may be approved by him.

Joists to be covered.

(2.) When any building is in the course of erection, repair, or structural alteration, it shall be the duty of the person having the control or management of such operations to make provisions, to the satisfaction of the Inspector, for the protection of workmen and others within such building or in the vicinity thereof by boarding over the joists of such building, and keeping them so boarded over so long as any risk of accident would be incurred by the removal of such protection.

(3.) Every person who commits a breach of any of the provisions of this section is liable to a fine not exceeding twenty pounds.

### Interfering with Inspector.

8. Every person who interferes with or obstructs any Inspector in the execution of any power or duty conferred or imposed on him by this Act is liable to a fine not exceeding five pounds.

### Accidents to be reported.

9. (1.) In every case where there occurs in connection with the erection, repair, or structural alteration of any building any accident causing death or serious bodily injury to any person, the person having the control or management of such operations shall forthwith serve upon the Inspector of the district within which such accident has occurred written notice specifying the nature of the accident, the name and residence of the person killed or injured, and the place (if any) to which such person has been removed.

(2.) If the said notice is not duly served within forty-eight hours after the occurrence of such accident, the person whose duty it was to serve such notice shall be liable to a fine not exceeding ten pounds.

(3.) As soon as practicable after receiving such notice the Inspector shall proceed to the place where the accident occurred, and shall make full inquiry into the cause and nature of the accident, and the nature and extent of the injuries, and shall report the result of such inquiry to the Minister.

(4.) For the purposes of this section the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer from work for at least forty-eight hours.

### How proceedings may be taken.

10. Proceedings may be taken for a breach of this Act, and the case heard and determined in a summary way by any Court of competent jurisdiction, and all fines inflicted shall be paid into and form part of the Consolidated Fund.

### Expenses of Act to be appropriated.

11. The salaries or remuneration of Inspectors, and all other expenses of carrying out the provisions of this Act by the Minister, shall be paid out of moneys from time to time appropriated by Parliament for that purpose.

---

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1906, No. 48.—"The Scaffolding Inspection Act, 1906."

1907, No. 27.—"The Scaffolding Inspection Act Amendment Act, 1907."

## THE SERVANTS' REGISTRY OFFICES ACT, 1908

1908, No. 174.

AN ACT to consolidate certain Enactments of the General Assembly relating to Servants' Registry Offices.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. (1.) The Short Title of this Act is " The Servants' Registry Offices Act, 1908."

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

Savings.

- (a.) All Orders in Council, orders, certificates, licenses, registers, registrations, books, records, instruments, and generally all acts of authority which originated under the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Interpretation.

2. In this Act, if not inconsistent with the context,—

" District " means a district as constituted for the time being under " The Factories Act, 1908 " :

" Inspector " means an Inspector of Factories for a district as herein defined :

" Servant " means any person engaged or seeking engagement for hire in any manual capacity, whether domestic, agricultural, pastoral, mechanical, or otherwise howsoever :

" Servants' registry office," or " registry office," or " office " means any house or office at which is carried on the business of procuring servants for employers or employment for servants, but does not include any association or institution not carried on for the profit thereof.

Every person keeping a registry office to be licensed.

3. It shall not be lawful for any person in any district directly or indirectly to keep or conduct a registry office, or to in any way hold himself out to be a keeper or conductor thereof, or to charge or recover fees for or in connection with the hiring of servants, unless he is the holder of a license in the form numbered (3) in the Second Schedule hereto.

Application for license.

4. (1.) The Inspector shall issue such license to any person who—  
(a.) Makes written application therefor in the form numbered (1) in the Second Schedule hereto ; and

Fee.

- (b.) Forwards with such application a license fee of ten shillings, and a certificate of character signed by a Magistrate in the form numbered (2) in the said Schedule.

(2.) Before a person applies to a Magistrate for such certificate he shall give at least three days' written notice to the Inspector stating the date and place when and where he intends to apply for the same, and the Inspector shall be entitled to be heard and bring evidence in opposition to the granting of such certificate.

Duration of license.

5. Such license, unless sooner cancelled, shall continue in force in the district for which it was issued, but not elsewhere, for one year, but may be renewed from year to year on payment of an annual fee of five shillings.

Inspector to keep register.

6. The Inspector shall keep a register of all license-holders in his district, and of all indorsements and cancellations of licenses.

Evidence of entry in register.

7. A copy of any entry in such register purporting to be signed by the Inspector shall be *prima facie* evidence of the truth of the matters stated in such copy.

Books and records to be kept by license-holder.

8. Every license-holder shall keep the following records of his business :—

- (a.) A book containing the name of every person who pays or is charged a fee for or in connection with the hiring of servants, together with the date and the amount of the fee :  
(b.) A book of engagements in the form numbered (4) in the Second Schedule hereto, containing the particulars therein specified :  
(c.) The originals of all letters received, for a period of one year from the receipt thereof, by the license-holder relating to the hiring of servants.



To be open to inspection.

9. Such books and records shall be accurately kept from day to day, and shall at all reasonable times be open to inspection by the Inspector.

Copies of entries may be taken.

10. Any employer or servant may at all reasonable times inspect and take copies of any entry relating to himself in such books.

Name to be posted up.

11. Every license-holder shall at all times keep posted up in some conspicuous place in or on his office, so as to be easily read by the public, the words "Licensed Registry Office Keeper."

License not transferable.

12. (1.) It shall not be lawful for a license-holder to transfer his license to any person, or to directly or indirectly permit any person to carry on business under colour of such license.

Unlicensed person not to hold himself out as licensed.

(2.) It shall not be lawful for any person not being a license-holder to directly or indirectly hold himself out to be a license-holder.

Governor may prescribe scale of fees.

13. The Governor may from time to time, by Order in Council gazetted, prescribe a scale of fees chargeable by and payable to license-holders in respect of the hiring of servants.

License-holder to post list of fees in his office.

14. Every license-holder shall at all times keep posted up in some conspicuous place in his office, so as to be easily read by all persons, a printed copy of the scale of fees for the time being in force under this Act.

Fees allowed to be received.

15. (1.) It shall not be lawful for any license-holder to directly or indirectly demand or receive from any person, for or in respect of the hiring of any servant, any greater or other fees than those specified in such scale, and any sum so in any way received by any license-holder in breach of this section may be recovered back, with full costs of suit, by the person who paid it.

(2.) No license-holder shall, directly or indirectly, take or accept any goods or chattels in payment or as security for the payment of such fees, nor shall any license-holder receive or accept any reward or other consideration in addition to the said fees.

License-holder may not have interests in lodginghouse.

16. (1.) It shall not be lawful for any license-holder to directly or indirectly keep servants as lodgers, or have any share or interest in the keeping of a lodginghouse for servants.

## Interest defined.

(2) For the purposes of this section a license-holder shall be deemed to have such interest as aforesaid if any lodger or lodginghouse is kept by any member of the license-holder's household.

## Illegal contracts or agreements.

17. Every contract or agreement made between any license-holder and any other person relating to the keeping of servants as lodgers or of a lodginghouse for such purpose shall be illegal and void for all purposes.

## Breach of Act.

18. If any person, being a license-holder, fails or neglects to comply with any of the provisions of this Act, or, being a license-holder or not, commits a breach of any of the provisions of this Act, he is liable to a fine not exceeding five pounds.

## Onus on accused to prove he is licensed.

19. In all proceedings under section twelve hereof the onus shall be on the accused to prove, by the production of his license, that he is a license-holder.

## Accused to produce his license.

20. In all proceedings under this Act against a license-holder he shall produce his license to the Court.

## Conviction to be indorsed on license.

21. Every conviction against a license-holder shall be indorsed on his license by the convicting Magistrate or Justices, and on a third indorsement within three years from the first indorsement within such period being made the license shall be deemed *ipso facto* cancelled, and the Clerk of the Court shall deliver it up to the Inspector.

## When license deemed to be cancelled.

22. If any license-holder is convicted of any indictable offence his license shall be deemed *ipso facto* cancelled.

## Effect of cancellation.

23. No person whose license has been cancelled shall be entitled to hold a license in any district until the expiration of one year from the date of such cancellation.

## Recovery of license-holder's fees.

24. No license-holder shall be entitled to maintain an action for the recovery of fees unless at the trial he produces his license.

## If license lost, duplicate may be issued.

25. On satisfactory proof of the loss or destruction of a license, and on the payment of a fee of one shilling, the Inspector may, at

the request of the licensee, issue a duplicate (bearing all indorsements), and such duplicate shall avail for all purposes as if it were the original.

Fees, &c., to be paid into Public Account.

26. All fees and fines received and recovered under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

## SCHEDULES.

FIRST SCHEDULE.

## ENACTMENTS CONSOLIDATED.

1895, No. 21.—"The Servants' Registry Offices Act, 1895."

SECOND SCHEDULE.

(1.) APPLICATION FOR LICENSE.

To the Inspector of Factories for the District of \_\_\_\_\_,  
I, A. B., residing at \_\_\_\_\_, hereby apply for a license under "The Servants'  
Registry Offices Act, 1908," as the keeper of a servants' registry office at the  
premises situate at \_\_\_\_\_ in this district. I enclose herewith the certificate of a  
Magistrate, and also the prescribed fee of ten shillings.

Dated this            day of            , 19    .

A. B.

(2.) CERTIFICATE OF MAGISTRATE.

I, THE undersigned, being a Stipendiary Magistrate residing or exercising jurisdiction within the District of \_\_\_\_\_, do hereby certify that I believe [*Here state the name of the applicant*] to be a fit and proper person to keep and have the conduct of a servants' registry office under "The Servants' Registry Offices Act, 1908."

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C. D.,

Stipendiary Magistrate.

(3.) LICENSE.

I, THE undersigned, Inspector of Factories for the District of \_\_\_\_\_, do hereby certify that A. B., of \_\_\_\_\_, is hereby licensed to keep and have the conduct of a servants' registry office in this district, subject to the provisions of "The Servants' Registry Offices Act, 1908." This license, unless sooner cancelled, continues in force in this district (but not elsewhere) for one year from the date hereof, and is not transferable in any manner whatsoever.

Dated this            day of            , 19    .

E. F.,

Inspector of Factories.

#### (4.) BOOK OF ENGAGEMENTS.

Name of Employer.	Address and Occupation.	Name of Servant.	Nature of Engagement.	Rate of Wages.	Terms of Engagement.

# THE SHEARERS' AND AGRICULTURAL LABOURERS' ACCOMMODATION ACT, 1908.

1908, No. 177.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Accommodation of Shearers and Agricultural Labourers.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is “The Shearers’ and Agricultural Labourers’ Accommodation Act, 1908.”

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All districts, appointments, regulations, notices, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Interpretation.

2. In this Act, if not inconsistent with the context,—

“Agricultural labourer” includes every person employed for any period exceeding twenty-four hours by an employer in agricultural or pastoral or flax-milling work of any kind, but does not include a shearer :

“Employer” includes every master, manager, foreman, overseer, or other person having the control or superintendence of any agricultural labourer, or the control of any shearing-shed, or engaged in the superintendence of any shearer :

“Inspector” means an Inspector appointed under “The Factories Act, 1908” (hereinafter referred to as “the Factories Act”), or under this Act :

“ Shearer ” includes all employees in or about shearing-sheds :

“ Shearing-shed ” means any building used for the purpose of shearing sheep, or for any operation connected with shearing ; and includes all buildings and premises connected therewith or adjacent thereto wherein shearers sleep or take their meals.

#### Appointment of Inspectors.

3. The Governor may from time to time appoint Inspectors under this Act, and define the districts over which they shall respectively exercise supervision, or may assign the duty of such supervision within such area of New Zealand as he directs to any Inspector appointed under the Factories Act.

#### Inspector's right of ingress and egress.

4. (1.) For the purpose of carrying out the provisions of this Act every Inspector shall have the free right of ingress and egress to and from any land or place on or in which any agricultural labourer is employed or accommodated, and to and from every shearing-shed.

#### Obstructing an Inspector.

(2.) Every person who obstructs any Inspector in the exercise of his duty, or refuses him ingress or egress is liable to a fine not exceeding twenty pounds.

#### *Shearers.*

#### Inspection of shearing-sheds.

5. It shall be the duty of every Inspector to visit and inspect at least once a year all shearing-sheds within the district assigned to him, and not later than the thirty-first day of March in every year he shall make a full and detailed report of such inspection to the Minister of Labour.

#### Proper accommodation to be provided.

6. (1.) It shall be the duty of the Inspector to see that proper and sufficient accommodation is provided at every shearing-shed for the comfort and health of the shearers ; and in any case where no provision is made, or where the provision made is deemed by him to be inadequate, he shall require the employer to provide, amend, or enlarge the same, in accordance with the requirements of this Act, within a time to be specified in a notice in writing in that behalf.

(2.) Such notice shall be served not later than the first day of June in each year, either on the employer personally or by leaving the same at his usual or last known place of residence.

(3.) If any employer neglects to comply with the terms of such notice, the Inspector may lay an information or make complaint of a breach of this Act, and may apply for an order as hereinafter mentioned.

Separate sleeping-accommodation for Chinese.

7. Where any persons of the Chinese race are employed in or about any shearing-shed, it shall be incumbent upon the employer to provide for such persons separate and distinct sleeping-accommodation from that provided for other shearers, if any; and every employer who fails so to do is liable to the fines set forth in section fourteen hereof.

Accommodation.

8. "Proper and sufficient accommodation" as regards sleeping-room means, in the case of shearers, not less than two hundred and forty cubic feet of air-space for each shearer sleeping in any room or apartment (which room or apartment shall not in any case be the same as that in which meals are provided), but shall not be deemed to require any employer to provide blankets or bedding.

Act not to apply in certain cases.

9. This Act does not apply to shearing-sheds in which the total number of shearers employed is less than six, nor to shearers whose ordinary residences are in the immediate neighbourhood of the shearing-shed in which they are employed, and who sleep at their own homes.

*Agricultural Labourers.*

Proper accommodation to be provided.

10. (1.) In any case where no provision is made for the accommodation of the agricultural labourers employed, or where the provision made is deemed by the Inspector to be inadequate, he shall require the employer to provide, amend, or enlarge the same, in accordance with the requirements of this Act, within a reasonable time to be specified in a notice in writing in that behalf.

(2.) Such notice may be served on the employer personally, or by leaving the same at his usual or last known place of residence.

(3.) If any employer fails to comply with the terms of such notice, the Inspector may lay an information or make complaint of a breach of this Act, and may apply for an order as hereinafter mentioned.

Separate sleeping-accommodation for Asiatics.

11. Where agricultural labourers are of any Asiatic race, the employer shall provide for such Asiatic labourers separate and distinct sleeping-accommodation from that provided for other agricultural labourers, and any employer who fails so to do is liable to the fines set forth in section fourteen hereof.

Act not to apply in certain cases.

12. (1.) This Act does not apply in the case of agricultural labourers whose ordinary residences are in the immediate neighbourhood of the land on which they are employed, and who sleep at their own homes or otherwise provide their own sleeping-accommodation.

(2.) Nothing in this Act shall require any person who employs a contractor to do any agricultural work to provide accommodation for any agricultural labourer employed by such contractor or on such work unless such labourer is regularly employed by such first-mentioned person.

(3.) In any case where agricultural labourers are employed by a contractor as aforesaid such accommodation as may be prescribed by regulations shall be provided by the contractor for such labourers.

Governor may make regulations.

13. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations prescribing the nature and extent of the accommodation that shall be deemed to be adequate for the purpose of this Act in the case of agricultural labourers, and for the maintenance of the same in a cleanly and sanitary condition :

Provided that no accommodation at a homestead shall be deemed to be adequate unless every room in which agricultural labourers are to be accommodated contains at least two hundred and forty cubic feet of air-space for every person to be so accommodated, nor unless, in cases where two or more persons are to be accommodated, separate rooms are provided for sleeping and for meals, and each room provided for meals contains a fireplace or other sufficient means of warming the room.

(2.) Such regulations may vary for different parts of New Zealand and for different times of the year.

Regulations to be presented to Parliament.

(3.) All such regulations shall be laid before Parliament within ten days after the gazetting thereof if Parliament is then sitting, or if not, then within ten days after the commencement of the next ensuing session.

### *General.*

Magistrate may make order.

14. (1.) On application of an Inspector for an order under this Act against any employer, a Magistrate shall hear and determine the same ; and if after inquiry into the case the Magistrate finds that no accommodation is provided, or is of opinion that the accommodation provided by the defendant employer is improper or insufficient, he may determine as to what accommodation or what further accommodation, as the case may be, shall be provided by such employer ; or, if he is of opinion that the accommodation is proper and sufficient, he may dismiss the application, or may make such order as the justice of the case may require ; and may, in his discretion, allow costs either to the Inspector or to the defendant employer.

(2.) Every employer who fails to comply with any such order within such time as is thereby appointed is liable to a fine not exceeding twenty-five pounds, and to a further fine not exceeding two pounds per day for every day during which such default continues.

Information for fine, &c., to be laid in nearest Magistrate's Court.

15. Every information or complaint under this Act shall be laid or made and heard, and all proceedings consequent thereon or incidental thereto shall be had and taken, in the manner provided by "The Justices of the Peace Act, 1908," before the Magistrate holding a Court nearest to the residence of the defendant employer.

No appeal from Magistrate.

16. Notwithstanding anything in any Act, there shall be no right of appeal to the Supreme or any other Court from the order or determination of any Magistrate made under this Act.

---

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1898, No. 15.—"The Shearers' Accommodation Act, 1898."

1907, No. 31.—"The Agricultural Labourers' Accommodation Act, 1907."

---

## EXTRACTS FROM "THE SHIPPING AND SEAMEN ACT, 1908."

1908, No. 178.

AN ACT to consolidate certain Enactments of the General Assembly relating to Shipping and Seamen.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title and commencement of Act.

1. (1.) The Short Title of this Act is "The Shipping and Seamen Act, 1908," and it shall not come into operation until His Majesty's pleasure thereon has been publicly signified in manner provided by the Constitution Act.

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:—



## Savings.

- (a.) All offices, appointments, Proclamations, Orders in Council, orders, rules, regulations, certificates, licenses, warrants, permits, registers, records, registrations, entries, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.
- (3.) This Act is divided into Parts, as follows :—
- PART I.—General Management. (Sections 5 to 20.)
- PART II.—Masters, Officers, and Seamen. (Sections 21 to 167.)
- PART III.—Regulation of Passengers. (Sections 168 and 169.)
- PART IV.—As to Steamships. (Sections 170 to 187.)
- PART V.—Ships propelled by other Power than Steam, and Restricted-limit Steamships. (Sections 188 and 189.)
- PART VI.—New Zealand Pilots. (Section 190.)
- PART VII.—Safety. (Sections 191 to 232.)
- PART VIII.—Shipping Inquiries and Courts. (Sections 233 to 250.)
- PART IX.—Wreck and Salvage. (Sections 251 to 283.)
- PART X.—Lighthouses. (Sections 284 to 292.)
- PART XI.—Liability of Shipowners. (Sections 293 to 304.)
- PART XII.—Registration of Shipping. (Sections 305 to 326.)
- PART XIII.—Legal Proceedings. (Sections 327 to 341.)
- PART XIV.—Foreign Deserters. (Sections 342 to 354.)

## PRELIMINARY.

## Application of Act.

2. (1.) This Act applies to all British ships registered at, trading with, or being at any place within the jurisdiction of New Zealand, and to the owners, masters, and crews thereof, except as hereinafter provided.

(2.) The provisions of this Act shall be so construed as not to exceed the legislative powers conferred on the General Assembly by the Constitution Act.

## Limitation of application.

(3.) This Act does not apply to ships belonging to His Majesty, nor to ships belonging to the Government of New Zealand except

as mentioned in subsection three of the next succeeding section, and except also in so far as any specified sections of this Act may, by order of the Governor in Council, be made applicable to such last-mentioned ships.

#### Flag for New Zealand merchant ships.

3. (1.) The red ensign usually worn by merchant ships, with the addition on the fly thereof of the Southern Cross as represented by four five-pointed white stars, and without any defacement or modification, is hereby declared to be the proper colours for all merchant ships registered in New Zealand.

#### New Zealand Ensign.

(2.) The New Zealand Ensign shall be the blue ensign of the Royal Naval Reserve, having on the fly thereof the Southern Cross as represented by four five-pointed red stars with white borders.

#### Use of Ensign.

(3.) The New Zealand Ensign shall be the recognised flag of New Zealand for general use on shore within New Zealand and on all vessels belonging to the Government of New Zealand or which are from time to time permitted under an Admiralty warrant to use the same.

#### Penalty for defacing Ensign.

(4.) Every person who defaces the New Zealand Ensign by placing any sign, representation, or letter thereon shall be liable to a fine not exceeding five pounds.

#### Interpretation.

4. In this Act, if not inconsistent with the context,—

“ Amidships ” means the middle of the length of the load water-line, as measured from the fore side of the stem to the aft side of the stern-post :

“ Buoys and beacons ” includes all marks and signs of the sea other than lighthouses as defined :

“ Collector of Customs ” means the principal or only officer of Customs for the time being at any port :

“ Consular officer,” when used in relation to a foreign country, means the officer recognised by His Majesty as a consular officer of that country :

“ Desertion ” means the absence of a seaman or apprentice from his ship without leave for a period of forty-eight hours without lawful cause or excuse, or any unlawful departure from his ship with the intention of not returning thereto :

“ Foreign-going ship ” means any ship not included in the term “ home-trade ship ” :

“ Freeboard ” means the height from the water to the upper side of the plank of the deck from which the depth of the hold

as stated in the register, is measured, and the measurement of the freeboard is to be taken at the lowest part of the side :

- “ Harbour ” includes harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties, and other works in or at which ships can obtain shelter, or ship or unship goods or passengers :
- “ Home-trade ship ” means any ship employed in trading or going between any ports or places in New Zealand, but not to or from the Cook Islands, Kermadec Islands, the Chatham Islands, the Auckland Islands, Campbell Island, Antipodes Island, or Bounty Island :
- “ Home-trade passenger-ship ” means any home-trade ship employed in carrying passengers :
- “ Imperial Merchant Shipping Act ” means “ The Merchant Shipping Act, 1894,” of the Imperial Parliament, and includes all amendments thereof :
- “ Intercolonial-trading ship ” means any ship actually trading between New Zealand and any port within the Commonwealth of Australia, or between New Zealand and any of the islands lying between the parallels of thirty degrees north and thirty degrees south latitude and the meridians of one hundred and fifty-five degrees east and one hundred and thirty degrees west longitude :
- “ Lighthouse,” in addition to the ordinary meaning of the word, includes floating and other lights exhibited for the guidance of ships ; and also sirens and any other description of fog-signals ; and also the addition to any lighthouse of an improved light :
- “ Master ” means any person (except a pilot) having command or charge of any ship :
- “ Minister ” means the Minister of Marine :
- “ Passenger ” means any person carried in a ship, other than the master and crew, and the owner and his family, and servants :
- “ Pilot ” means any person not belonging to a ship who has the conduct thereof :
- “ Restricted limits ” means such limits as are from time to time defined by the Minister as restricted limits :
- “ Seaman ” means any person employed or engaged in any capacity on board any ship (except masters, pilots, and duly indentured apprentices) :
- “ Secretary ” means the Secretary to the Marine Department, and includes any officer for the time being duly authorised to act in that capacity :
- “ Ship ” includes every description of vessel used in navigation not propelled by oars :

- “ Superintendent ” means a Superintendent of Mercantile Marine, or any other officer discharging the duty of a Superintendent of Mercantile Marine :
- “ Surveyor ” means a Surveyor of Ships appointed under this Act, or any other person authorised to act for a Surveyor :
- “ Tackle ” used in relation to a ship includes all furniture and apparel thereof :
- “ Tidal water ” means any part of the sea, or of a river within the ebb and flow of the tide at ordinary spring tides :
- “ Wages ” includes emoluments.

\* \* \* \* \*

*Powers for enforcing Compliance with Act.*

Power of principal officer of Customs and Superintendent and Surveyor.

14. (1.) Where any of the following officers, namely :—

Any principal officer of Customs ; or

Any Superintendent of Mercantile Marine ; or

Any Surveyor ; or

Any other person duly authorised in that behalf by the Minister—has reason to suspect that the provisions of this Act, or any law for the time being in force relating to merchant seamen or navigation, is not complied with, that officer may—

- (a.) Require the owner, master, engineer, or any of the crew of any ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control :
- (b.) Require any such master to produce a list of all persons on board his ship at the time of her departure from her first port, and of all persons who have subsequently been received on board at any port of call, distinguishing the passengers according to the classes of saloon, second-class, or steerage passengers :
- (c.) Take copies of the official log-books or documents, or of any part thereof :
- (d.) Muster the crew of any such ship, and require all persons on board of such ship (other than the crew) to be collected together before him, and if he finds those persons in the aggregate exceed the number of persons (other than as aforesaid) which the ship is authorised to carry may prevent her from going to sea until persons in excess of such number have left the ship :
- (e.) Summon the master to appear and give any explanation concerning the ship or her crew, or the official log-books or documents produced or required to be produced :

- (f.) Withhold the clearance of the ship if such explanation is not deemed satisfactory, and, if necessary, prevent her from going to sea for a period not exceeding twenty-four hours from the giving of such explanation :
  - (g.) See that the ship is fully manned in accordance with this Act or the Imperial Merchant Shipping Act, as the case may be, and that the provisions of this Act referring to load-lines are complied with.
- (2.) Every person is liable for each offence to a fine not exceeding twenty pounds who, on being duly required by an officer authorised under this section,—
- (h.) Fails without reasonable cause to produce to that officer any such official log-book or document as he is required to produce under this section ; or
  - (i.) Refuses to allow the same to be inspected or copied : or
  - (j.) Impedes any muster of the crew required under this section ;  
or
  - (k.) Fails to give any explanation which he is required under this section to give ; or
  - (l.) Knowingly misleads or deceives any officer authorised under this section to demand any such explanation.

### *Surveyors of Ships.*

#### Appointment of Surveyors.

15. (1.) The Minister may from time to time, as and when and at such ports as he thinks fit, appoint either generally or for special purposes, and on special occasion, any person to be a Surveyor of Ships for the purposes of this Act. [E.C.]

#### Chief Surveyor.

(2.) The Minister may also appoint a Chief Surveyor of Ships for New Zealand.

#### Remuneration and duties of Surveyors.

(3.) The Minister may from time to time, as he thinks fit, fix the remuneration of the Chief Surveyor and of Surveyors, and make regulations as to the performance of their respective duties, and in particular as to the manner in which surveys of ships are to be made, as to the notice to be given by them when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by them in the execution of their duties, and may by such regulations determine the persons by whom and the conditions under which the payment of those expenses is to be made.

#### Surveyors demanding fees not authorised.

(4.) Every Surveyor who demands or receives directly or indirectly any fee, remuneration, or gratuity in respect of any duties

performed by him under this Act otherwise than by the direction of the Minister is liable for each offence to a fine not exceeding fifty pounds.

(5.) The duties of a Surveyor shall be performed under the direction of the Minister, and in accordance with the regulations made by him, or in accordance with regulations made by the Imperial Board of Trade if the Minister so directs.

#### Powers of Surveyors.

16. (1.) A Surveyor in the execution of his duties may go on board any ship at all reasonable times and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master, mate, or engineer to which the provisions of this Act or any of the regulations under this Act apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage.

(2.) If in consequence of any accident to the ship or for any other reason the Surveyor considers it necessary so to do, he may require the ship to be taken into dock for the purpose of surveying the hull thereof.

(3.) Every person who hinders any Surveyor from going on board any ship, or otherwise impedes him in the execution of his duties under this Act, is liable for each offence to a fine not exceeding five pounds.

(4.) A Surveyor shall have all the powers conferred by this Act upon a Marine Inspector.

#### Surveyors to make returns.

17. (1.) Surveyors shall make such returns to the Minister as he may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of ships surveyed by them.

(2.) The owner, master, and engineer of any ship so surveyed shall, on demand, give to the Surveyor all such information and assistance within their power as he requires for the purpose of those returns.

(3.) Every owner, master, or engineer who on being applied to for that purpose fails without reasonable cause to give any such information or assistance is liable for each offence to a fine not exceeding five pounds.

#### *Marine Inspectors.*

##### Appointment of Inspectors.

18. The Minister may from time to time, as and when he thinks fit, appoint any person as an Inspector to report to him—

(a.) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused ; or

- (b.) Whether the provisions of this Act, or any regulations under this Act, have been complied with ; or
- (c.) Whether the hull and machinery of any steamship are sufficient and in good condition.

Powers of Inspectors.

19. (1.) An Inspector so appointed (in this Act referred to as a "Marine Inspector"), and any person having the powers of a Marine Inspector, may—

- (a.) Go on board any ship and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ; and
- (b.) Enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ; and
- (c.) Require, by summons under his hand, the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries he thinks fit to make ; and
- (d.) Require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report ; and
- (e.) Administer oaths, or may, in lieu of requiring or administering an oath, require the person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(2.) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpœna to give evidence before the Supreme Court.

(3.) In case of any dispute as to the amount of those expenses, the same shall be referred to the nearest available Registrar of the Supreme Court, who shall, on request made to him for that purpose under the hand of the Marine Inspector, or person having the powers of a Marine Inspector, ascertain and certify the proper amount of those expenses.

(4.) Every person is liable for each offence to a fine not exceeding ten pounds who—

- (f.) Refuses to attend as a witness before a Marine Inspector, or before any person having the powers of a Marine Inspector, after having been required to do so in manner provided by this section, and after having had a tender made to him of the expenses (if any) to which he is entitled under this section ; or
- (g.) Refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make

or subscribe any declaration which a Marine Inspector or person having the powers of a Marine Inspector is hereby empowered to require.

Persons obstructing Inspector.

20. Every person who wilfully obstructs a Marine Inspector, or any person having the powers of a Marine Inspector, in the execution of his duty, whether on board a ship or elsewhere, shall for each offence be liable to a fine not exceeding ten pounds, and may be seized and detained by the Marine Inspector or person having the powers of a Marine Inspector, or by any person or persons whom that Inspector or person may call to his assistance, until he can be conveniently taken before some Justice or other officer having proper jurisdiction.

## PART II.

### MASTERS, OFFICERS, AND SEAMEN.

#### *Certificates of Competency.*

Certain officers to hold certificate.

21. (1.) Every British ship when going to sea or plying from any place in New Zealand, and every foreign ship when plying as a home trade ship, shall be provided with officers duly certificated under this Act according to the following scale :—

(a.) In any case with a duly certificated master.

(b.) If the ship is a home-trade sailing-ship of one hundred tons register or upwards, or a home-trade steamship of sixty tons register or upwards, then with at least one officer besides the master, such officer holding a certificate not lower than that of mate :

Provided that any such ship of one hundred tons register or upwards running more than three hundred miles between terminal ports shall carry a second mate holding a certificate not lower than that of second mate of a home-trade ship or of master of a fishing-boat or cargo-vessel under twenty-five tons register.

(c.) If the ship is a foreign-going ship, then with at least a first and second mate duly certificated.

(d.) If the ship is a steamship authorised to ply within river limits or extended river limits only, then with a master holding a certificate as master of a river steamer.

(e.) If the ship is a home-trade cargo-ship only of over five tons or up to twenty-five tons (inclusive) net register, then with a duly certificated master whose certificate shall not be of a lower grade than that prescribed for that class of ship by the next succeeding section.



- (f.) If the ship is a home-trade ship over twenty-five and up to one hundred tons net register and not included in the foregoing provisions, then with a duly certificated master whose certificate shall not be of a lower grade than that of a master of a home-trade ship.
- (g.) If the ship is a sailing-ship of over five tons and up to twenty-five tons register, carrying passengers within such restricted limits as may be approved by the Minister, then with a duly certificated master whose certificate shall be of a grade prescribed by the Minister.
- (h.) If the ship is a fishing-boat exclusively employed in fishing on the coast of New Zealand, whether sea-going or running within river or extended river limits, then with a duly certificated master whose certificate shall be of a grade prescribed by the Minister.
- (i.) If the ship is a foreign-going steamship, trading beyond the limits prescribed in the case of intercolonial-trading ships, of one hundred nominal horse-power or upwards, then with at least two engineers, one of whom shall be a first-class and the other a first-class or second-class engineer duly certificated.
- (j.) If the ship is a foreign-going steamship, trading beyond the said limits, of less than one hundred nominal horse-power, then with at least one engineer who is a first-class or second-class engineer duly certificated.
- (k.) If the ship is a sea-going steamship other than is described in the two last preceding paragraphs, then with duly certificated engineers according to the scale set forth in the Second Schedule hereto.
- (l.) If the ship is a steamship plying within extended river limits, and is fitted with machinery the area of cylinder or combined area of cylinders of the propelling machinery of which exceeds one thousand circular inches, then with engineers according to the scale set forth in the Second Schedule hereto :  
Provided that the holder of a river engineer's certificate who has been engineer of such a steamship, the area of whose cylinders exceeded one thousand circular inches, for a period of not less than six months before the seventh day of April, one thousand nine hundred and five (being the date of the coming into operation of "The Shipping and Seamen Act, 1903"), may be an engineer of any steamship to which this paragraph applies.
- (m.) If the ship is a steamship plying within extended river limits, and is fitted with machinery the area of cylinder or combined area of cylinders of the propelling machinery of which does not exceed one thousand circular inches, then with a river engineer.

- (n.) If the ship is a steamship plying within river limits, then with a river engineer duly certificated.
  - (o.) If the ship is a steamship plying only within harbours, rivers, and lakes, or other inland navigable waters, and is fitted with non-condensing machinery the area of cylinder or combined area of cylinders of the propelling machinery of which does not exceed two hundred circular inches, then with a marine-engine driver.
  - (p.) If the ship is a sea-going ship propelled by gas, oil, fluid, electricity, or other mechanical power than steam, then with a first-class engineer duly certificated for such ships.
  - (q.) If the ship is a sea-going ship propelled solely by gas, oil, fluid, electricity, or other mechanical power than steam, and fitted with machinery not exceeding sixty brake horse-power, then with a first-class or second-class engineer duly certificated for such ships.
  - (r.) If the ship is a ship propelled by gas, oil, fluid, electricity, or other mechanical power than steam, and plying within river or extended river limits, then with a restricted-limit engineer duly certificated for such ships.
  - (s.) If the ship is a ship propelled by any mechanical power, plying within river or extended river limits, and which does not hold a certificate of survey authorising the carriage of passengers, or is a ship propelled by steam or other mechanical power, although carrying passengers on any navigable lake or inland navigable water, then with a master holding a certificate of not lower grade than that prescribed for master of fishing-boat or cargo-vessel of twenty-five tons and under.
- (2.) Every person is liable to a fine not exceeding fifty pounds who—
- (t.) Having been engaged as one of the above-mentioned officers, goes to sea as such officer without being duly certificated ;  
or
  - (u.) Employs a person as an officer, in breach of this section, without ascertaining that the person so serving is duly certificated.

(3.) An officer shall not be deemed duly certificated within the meaning of this section unless he is the holder for the time being of a valid certificate of competency or service of a grade appropriate to his station in the ship or of a higher grade :

Provided that every valid certificate of competency granted under the Imperial Merchant Shipping Act, or of the same force as if granted under that Act, shall have the same force as if granted under this Act :

Provided also that a valid certificate of competency as skipper of fishing-boats granted by the Board of Trade under the Imperial Merchant Shipping Act shall entitle the holder thereof to be master of a fishing-boat under this Act.

Fraudulent employment as master, mate, &c., to evade Act.

(4.) Every master or owner of a ship who fraudulently engages or suffers to be engaged any duly certificated master, mate, or engineer to serve for the purpose only of enabling the ship to clear and not for the purpose of the whole voyage, and every master, mate, or engineer who so engages himself, commits an offence.

(5.) If any certificated master, mate, or engineer engaged to serve as such on board any ship quits the ship before or on the commencement of her voyage, he shall be deemed, unless the contrary is shown, to have been fraudulently engaged as aforesaid.

Certificates of different grades.

22. (1.) Certificates of competency shall be granted, in accordance with this Act, for each of the following grades, that is to say:—

Master of foreign-going ship :

First mate of foreign-going ship :

Second mate of foreign-going ship :

Only mate of foreign-going ship :

Master of home-trade ship :

Mate of home-trade ship :

Second mate of home-trade ship :

Master of river steamer :

Master of sailing-vessel of over five tons and up to twenty-five tons register within restricted limits :

Master of fishing-boat or cargo-vessel under twenty-five tons register :

First-class engineer :

Second-class engineer :

Third-class engineer :

River engineer :

Marine-engine driver :

First-class engineer of a ship propelled by mechanical power other than steam :

Second-class engineer of a ship of the description last mentioned :

Restricted-limits engineer of the same description of ship.

(2.) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in the last-mentioned ship; but a certificate for a home-trade ship shall not entitle the holder to go to sea as master or mate of a foreign-going ship.

(3.) The holder of a second mate's foreign-going certificate shall be entitled to ship as mate of a home-trade ship.

(4.) A person shall not be entitled to receive or hold a first-class engineer's certificate unless he is the holder of a certificate of the second class; or a second-class engineer's certificate unless he is the holder of a certificate of the third class.

(5.) Every applicant for a third-class engineer's certificate shall, before being admitted to examination, satisfy the Minister or any officer appointed by him that he is at least twenty years of age, and has worked as apprentice for at least five years in a workshop or shops where engines are manufactured or repaired, or where other work of a similar class is performed, and during three years at least of such service has been employed in fitting or erecting machinery:

Provided that the Minister may exempt from examination any applicant for a third-class engineer's certificate—

- (a.) Who prior to the first day of January, one thousand eight hundred and ninety-seven, had sailed and served as engineer on board a sea-going steamship for a period of not less than twelve months; or
- (b.) Who is the holder of the degree of Bachelor of Science in Engineering granted by the New Zealand University, or by any university which is recognised by the New Zealand University as entitling the holder to admission *ad eundem gradum*; or
- (c.) Who has worked for at least three years in a workshop as hereinbefore prescribed, and has also attended the engineering class for at least two years in any college affiliated to the New Zealand University, or in any university recognised by the New Zealand University as aforesaid.

#### Examination for certificate.

23. (1.) For the purpose of granting certificates of competency as masters or mates, or engineers, to persons desirous of obtaining the same, examinations shall be held at such times and places, and by such Examiners, as the Minister from time to time appoints.

(2.) The Minister may make rules, which shall be strictly adhered to by the Examiners, for—

- (a.) The conduct of the examinations; and
- (b.) The qualification of the applicants:

and may depute any of the officers of the Marine Department to attend and assist at any examination.

(3.) The approval of the Minister shall be necessary so far as regards the number and the remuneration of the Examiners, and an Examiner shall not be appointed unless he holds a certificate of qualification to be from time to time granted or renewed by the Minister.

## Examination fees.

(4.) Every applicant for examination, whether as master, mate, or engineer, shall be a British subject, and shall pay such fees, not exceeding those specified in the Third Schedule hereto, as the Minister directs, and the fees shall be paid to such persons as the Minister appoints.

## Examiners in sight-tests.

24. (1.) The Minister may from time to time appoint fit and proper persons to be examiners of applicants in the sight-tests which may be prescribed by the said rules or otherwise.

## Officers may be examined for sight-test.

(2.) If the owner of a ship at any time requires the master or any mate to submit himself for examination in any sight-test, or if the Minister has reason to believe that it is advisable for the safety of life and property that any master or mate be so examined, then such examination shall be made in accordance with the last preceding subsection.

## Certificate.

25. (1.) The Secretary shall, subject as hereinafter mentioned, cause to be delivered to every applicant who is duly reported by the Examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, such a certificate of competency as the case requires.

(2.) The Minister may, in any case in which a report appears to him to have been unduly made, remit the case either to the Examiners who made the report or to any other Examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

## Certificate without examination in certain cases.

26. (1.) A person who has attained the rank of lieutenant, sub-lieutenant, navigating lieutenant, or navigating sub-lieutenant in His Majesty's Navy, or of lieutenant in His Majesty's Indian Marine Service, shall be entitled to a certificate as master of a foreign-going ship without examination.

(2.) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or Indian Marine Service shall be entitled, without examination, if an engineer, to a certificate as first-class engineer; and, if an assistant engineer, to a certificate as second-class engineer.

## Service certificates.

27. The holder of a certificate of service granted under section twenty-seven of "The Shipping and Seamen Act, 1903," shall for the purposes of this Act be deemed to be the holder of a certificate of competency of equal grade under this Act :

Provided that any such certificate shall only entitle the holder thereof to have charge of a ship of the class engaged in the trade and of a tonnage not greater than that specified in the certificate.

Certificate to be in duplicate.

28. (1.) All certificates shall be made in duplicate, one part to be delivered to the person entitled to the certificate and one to be preserved.

(2.) Such last-mentioned part of the certificate shall be preserved ; and a record of certificates, and the suspending, cancelling, or altering of the certificates, and any other matter affecting them, shall be kept in such manner and by such officer of the Marine Department as the Minister directs.

(3.) Any such certificate and any record under this section shall be admissible in evidence in manner provided by this Act.

Lost certificate.

29. If a master, mate, or engineer proves to the satisfaction of the Secretary that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Secretary shall, and in any other case may, upon payment of such fee (if any) as he directs, cause a copy of the certificate to which, by the record kept in pursuance of this Act, he appears to be entitled to be certified by the officer directed to keep the record and to be delivered to him : and a copy purporting to be so certified shall have all the effect of the original.

Rating of engineers.

30. On all steamships the engineers shall be rated as officers, under the designation of chief, second, third, and fourth engineer respectively, in accordance with their relative positions on board.

Certificate to be produced.

31. (1.) The master of a foreign-going ship.—

(a.) On signing the agreement with the crew before a Superintendent, shall produce to him the certificates which the master, mates, and engineers of the ship are by this Act required to hold : and

(b.) In the case of a running agreement, shall also, before the second and every subsequent voyage, produce to the Superintendent the certificate of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2.) The master or owner of every home-trade ship of twenty-five tons register or upwards shall produce to some Superintendent, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, the certificates which the master, mates, and engineers of the ship are by this Act required to hold.

(3.) Upon the production of the certificates the Superintendent shall, if the certificates are such as the master, mates, and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates have been so produced.

(4.) The master shall, before proceeding to sea, produce the Superintendent's certificate to the principal officer of Customs, and the ship may be detained until the certificate is produced.

#### Offences as to certificate.

32. Every person is guilty of a crime who—

- (a.) Forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any certificate of competency or service, or an official copy of any such certificate; or
- (b.) Makes, assists in making, or procures to be made any false representation for the purpose of procuring either for himself or for any other person a certificate of competency or service, or the grant of any such certificate; or
- (c.) Fraudulently uses a certificate or copy of a certificate of competency or service which has been forged, altered, cancelled, or suspended, or to which he is not entitled; or
- (d.) Fraudulently lends his certificate of competency or service, or allows it to be used by any other person.

#### *Access to Charts.*

Officers taking part in navigation to have access to charts.

33. All officers who take part in the navigation of any vessel propelled by sail or steam shall have access to the charts belonging to the ship in use during any voyage.

#### *Apprenticeship to the Sea Service.*

Superintendents to assist in binding apprentices.

34. All Superintendents shall give to persons desirous of apprenticing boys to or requiring apprentices for the sea service such assistance as may be in their power, and may receive from those persons such fees as the Minister directs.

Apprenticeship of inmate of industrial school.

35. Subject to the provisions of this Act, apprenticeships to the sea service made by the manager of an industrial school under "The Industrial Schools Act, 1908," in respect of inmates of any such school, shall be made in the manner and subject to the provisions and regulations of that Act; and with respect to every such apprenticeship the following provisions shall apply:—

- (a.) The minimum age at which the boy may be apprenticed shall be fourteen years.

- (b.) The indenture of apprenticeship may be sued on by the manager for the time being of the industrial school by his name of office; and actions so brought shall not abate by reason of any death or change in the person holding office.
- (c.) The amount of the costs incurred in any such action, and not recovered from the defendant, may be charged as the expenses incurred in binding out the apprentice.

#### Execution of indentures.

36. (1.) In the case of every indenture of apprenticeship to the sea service made in New Zealand, the indenture shall be executed in duplicate by the boy and the person to whom he is bound, in the presence of and shall be attested by a Magistrate or two Justices, or (if the boy is apprenticed by his parent) by a Superintendent, who shall ascertain that the boy has consented to be bound, and has attained the age of fourteen years and is of sufficient health and strength, and that the person to whom the boy is bound is a proper person for the purpose:

Provided that where the boy is apprenticed by the master of an industrial school the consent of the Minister of Education instead of the consent of the boy shall be necessary, and shall be ascertained as aforesaid.

#### Indentures exempt from stamp duty.

(2.) Every indenture of apprenticeship shall be in the form approved by the Minister, and shall be exempt from stamp duty.

#### And to be recorded.

(3.) Every indenture of apprenticeship, and every assignment or cancellation thereof, shall be recorded, and, if the apprentice dies or deserts, the fact of the death or desertion shall also be recorded.

(4.) For the purpose of the record—

(a.) A person to whom an apprentice is bound shall, within seven days of the execution of the indenture, take or transmit to the Superintendent the indenture executed in duplicate, and the Superintendent shall keep and record the one indenture, and indorse on the other the fact that it has been recorded, and redeliver it to the master of the apprentice:

(b.) The master shall notify any assignment or cancellation of the indenture, or the death or desertion of the apprentice, to the Superintendent within seven days of the occurrence, if it occurs within New Zealand, or as soon as circumstances permit if it occurs elsewhere.

(5.) Every person who fails to comply with any requirement of this section is liable for each offence to a fine not exceeding ten pounds.



Apprentice and indenture to be produced to Superintendent.

37. (1.) The master of a foreign-going ship shall, before carrying an apprentice to sea from a port in New Zealand, cause the apprentice to appear before the Superintendent before whom the crew are engaged, and shall produce to the Superintendent the indenture by which the apprentice is bound, and every assignment thereof.

(2.) The name of the apprentice, with the date of the indenture and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew.

(3.) If the master fails without reasonable cause to comply with any requirement of this section he shall for each offence be liable to a fine not exceeding five pounds.

Indentures cancelled on sale of ship.

38. Where the owner of any ship having on board any indentured apprentice dies, or becomes bankrupt or insolvent, or sells the ship, or transfers his interest to any other person, the indenture shall *ipso facto* be cancelled, and a proportionate part of any moneys paid as premium shall be repaid, and until repaid shall be a charge on the ship :

Provided that the person to whom such ship has been sold or transferred may, with the consent of the parent or guardian of such apprentice, substitute his name in the indenture as the employer in lieu of that of the previous owner.

### *Engagement of Seamen.*

By whom seamen may be engaged.

39. (1.) A person shall not—

(a.) Engage or supply a seaman or apprentice to be entered on board any ship in New Zealand : or

(b.) Employ any other person for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship in New Zealand—

unless such person is the owner or master, mate, or engineer of the ship, or is *bona fide* the servant and in the sole and constant employment of the owner, or is a Superintendent.

(2.) A person shall not receive or accept to be entered on board any ship any seaman or apprentice if that person knows that the seaman or apprentice has been engaged or supplied in breach of this section.

(3.) Every person who commits any breach of this section is liable for each seaman or apprentice in respect of whom an offence is committed to a fine not exceeding twenty pounds.

Receiving remuneration for providing employment.

10. Every person is liable for each offence to a fine not exceeding ten pounds who demands or receives, directly or indirectly, from a seaman or apprentice, or from a person seeking employment as a seaman or apprentice, or from a person on his behalf, any remuneration for providing him with employment.

Agreement with the crew.

11. (1.) Except in the case of ships of less than twenty-five tons registered tonnage exclusively employed in trading between different ports on the coasts of New Zealand, the master of every ship shall enter into an agreement (in this Act called "the agreement with the crew") in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port in New Zealand :

Provided that, with the approval of the master and subject to his signing the agreement, the chief engineer may engage the greasers, firemen, and trimmers.

(2.) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master in the case of a foreign-going ship, and the master or owner in the case of a home-trade ship, shall for each offence be liable to a fine not exceeding five pounds.

Particulars and form of agreement.

(3.) The agreement with the crew shall be in a form approved by the Minister, and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.

(4.) The agreement with the crew shall contain as terms thereof the following particulars :—

- (a.) Either the nature, and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend :
- (b.) The number and description of the crew, specifying how many are engaged as A.B.s, ordinary seamen, and boys :
- (c.) The time at which each seaman is to be on board or to begin work :
- (d.) The capacity in which each seaman is to serve :
- (e.) The amount of wages each seaman is to receive :
- (f.) A scale of the provisions to be furnished to each seaman :
- (g.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishment for misconduct which have been approved by the Minister as regulations proper to be adopted, and which the parties agree to adopt :

(*h.*) The freeboard when loaded.

(5.) The agreement with the crew shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages or otherwise, as are not contrary to law.

(6.) If the master of a British ship registered at a port out of New Zealand has an agreement with the crew made in due form according to the law of that port, or of the port in which her crew were engaged, and engages single seamen in New Zealand, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the Minister.

Agreement in the case of foreign-going ships.

42. The following provisions shall have effect with respect to the agreement with the crew made in New Zealand in the case of foreign-going or intercolonial ships registered either within or out of New Zealand :—

- (*a.*) The agreement shall (subject to the provisions of this Act as to substitutes) be signed by each seaman in the presence of a Superintendent.
- (*b.*) The Superintendent shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.
- (*c.*) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Superintendent, and the other shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (*d.*) Where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before a Superintendent, and, when not practicable, the master shall, before the ship puts to sea if practicable, and if not, then as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (*e.*) Where the agreement is signed on board the ship or at any place other than a Mercantile Marine Office, the extra expense (if any) caused by the attendance of the Superintendent shall be borne by the ship.

- (f.) The agreement may be made for a voyage, or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Act referred to as "running agreements."
- (g.) Running agreements shall not extend beyond six months from the date thereof, or the first arrival of the ship at her final port of destination in New Zealand after that date, or the discharge of cargo consequent on that arrival.
- (h.) On every return to a port in New Zealand before the final termination of a running agreement, the master shall make on the agreement an indorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law; and if a master fails to make such indorsement, or wilfully makes a false statement therein, he shall for each offence be liable to a fine not exceeding twenty pounds.
- (i.) The master shall deliver the running agreement so indorsed to the Superintendent, and the Superintendent shall, if the provisions of this Act relating to agreements have been complied with, sign the indorsement and return the agreement to the master.
- (j.) The duplicate running agreement retained by the Superintendent on the first engagement of the crew shall be kept by the Superintendent until the expiration of the agreement.
- (k.) In determining the fees payable upon the engagement and discharge of seamen belonging to ships having running agreements, the crew shall be deemed to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be deemed to be engagements and discharges of single seamen.

Agreement in the case of home-trade ships.

43. The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act:—

- (a.) Crews shall, when the agreement is first signed, be engaged before a Superintendent in the same manner as they are required to be engaged for foreign-going ships, and the provisions of paragraphs (a) to (c) of the last preceding section shall apply.
- (b.) During the currency of the agreement single seamen may be engaged by the master:

Provided that such engagement shall be reported to the Superintendent in the first place at which the ship arrives after the engagement, and there ratified by the Superintendent, who, upon being satisfied that the seaman so shipped is qualified, shall, if he considers it necessary to do so, see that the agreement is read and explained to the seaman.

- (c.) Agreements shall not in the case of ships of twenty-five tons register or upwards extend beyond six months from the date thereof, or the first arrival of the ship at her final port of destination in New Zealand after that date, or the discharge of cargo consequent on that arrival.

Changes in crew to be reported.

44. (1.) The master of every foreign-going ship whose crew has been engaged before a Superintendent shall, before finally leaving New Zealand, sign and send to the nearest Superintendent a full and accurate statement, in a form approved by the Minister, of every change which takes place in his crew before finally leaving New Zealand, and that statement shall be admissible in evidence in manner provided by this Act.

(2.) In the case of a foreign-going ship, on the due execution of an agreement with the crew in accordance with this Act, and also, where the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the Superintendent shall grant the master of the ship a certificate to that effect.

(3.) The master of every foreign-going ship shall, before proceeding to sea, produce to the officer of Customs that certificate, and any such ship may be detained until the certificate is produced.

(4.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in New Zealand, or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the Superintendent, and the Superintendent shall give the master a certificate of that delivery.

(5.) An officer of Customs shall not clear the ship inwards until the certificate of delivery is produced.

(6.) If the master fails without reasonable cause to comply with any of the requirements of this section, he shall for each offence be liable to a fine not exceeding five pounds.

Agreement to be produced periodically.

45. (1.) The master or owner of a home-trade ship of twenty-five tons register or upwards shall, within twenty-one days after the termination of every agreement with the crew, deliver or transmit to a Superintendent the agreement with the crew.

(2.) The Superintendent on receiving the agreement shall give the master or owner of the ship a certificate to that effect, and the ship shall be detained unless the certificate is produced to the proper officer of Customs.

(3.) If the master or owner fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

Copy of agreement to be conspicuously posted.

46. (1.) The master shall, at the commencement of every engagement, cause a legible copy of the agreement with the crew (omitting the signatures) to be posted up in some part of the ship accessible to the crew.

(2.) If the master fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

(3.) Every person who, during the currency of the agreement, removes or wilfully defaces or destroys any copy of the agreement so posted up is liable to a fine not exceeding five pounds.

Offences as to agreement.

47. Every person is guilty of a crime who—

- (a.) Fraudulently alters, makes any false entry in, or delivers a false copy of any agreement with the crew ; or
- (b.) Assists in committing or procures to be committed any such offence.

Alterations in agreement to be attested.

48. Every erasure, interlineation, or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship) shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation, or alteration, by the written attestation (if in His Majesty's dominions) of some Superintendent, Justice, officer of Customs, or other public functionary ; or elsewhere, of a British consular officer ; or, where there is no such officer, of two respectable British merchants.

Proof of agreement by seamen.

49. In any legal or other proceeding a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Engagement of seamen abroad.

50. With respect to the engagement of seamen abroad, the following provisions shall have effect in the case of ships registered in New Zealand :—

(a.) Where the master of a ship engages a seaman in any British possession other than the United Kingdom, or at a port in which there is a British consular officer, the provisions of this Act respecting agreements with the crew made in New Zealand shall apply, subject to the following modifications :—

(i.) In any such British possession the master shall engage the seaman before a Superintendent, or, if there is no such Superintendent, then before an officer of Customs.

(ii.) At any such port having a British consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall engage the seaman before that officer.

(iii.) The officer shall indorse upon the agreement an attestation to the effect that the agreement has been signed in his presence and otherwise made as required by this Act, or by the Imperial Merchant Shipping Act, and also, if the officer is a British consular officer, that it has his sanction : and, if the attestation is not made, the burden of proving that the engagement was made as required by this Act shall lie upon the master.

(b.) Every master who fails to comply with this section is liable for each offence to a fine not exceeding five pounds.

### *Rating of Seamen.*

#### *Rating of A.B.*

51. (1.) A seaman shall not be entitled to the rating of A.B. (meaning thereby an able-bodied seaman) unless he has served at sea for four years before the mast or as an apprentice ; but the employment of fishermen in decked fishing-vessels or cutters shall only count as sea service up to the period of three years of that employment, and in their case the rating of A.B. shall only be granted after at least one year's sea service in a trading-ship in addition to three or more years' sea service on board decked fishing-vessels or cutters.

(2.) Any person is entitled to be rated as an A.B. for the purpose only of serving on a steamship engaged in the home trade who has served for two years as an ordinary seaman on a steamship or square-rigged sailing-ship, or registered fishing-vessel or decked cutter, or who has served an apprenticeship for two years in a square-rigged sailing-vessel ; and the nature of his rating shall be so entered in his discharge :

Provided that when service has been on a steamship only the discharge shall be so indorsed.

(3.) The service may be proved by certificates of discharge, or by a certificate of service from a Superintendent (granted by the Superintendent or the Registrar of Seamen on payment of a fee not exceeding

sixpence), specifying in each case whether the service was rendered in whole or in part in steamship or in sailing-ship, or by other satisfactory proof.

(4.) A seaman who is carried in accordance with the requirements of the Fourth Schedule hereto shall not, except in case of emergency, be employed on board a ship in a capacity other than that for which he was engaged, as shown by the agreement :

Provided that in cases where one or more of the boilers of a steamship are not in use, and the greasers, firemen, and trimmers carried are sufficient in accordance with the requirements of the said Fourth Schedule for a steamship of the horse-power developed when the whole of the boilers are in use, those greasers, firemen, and trimmers in excess of the number required by the said Schedule for a steamship of the horse-power developed by the boilers actually in use may be employed in any other capacity in the same department :

Provided also that this subsection shall not apply to ships plying within river or extended river limits.

#### Seamen to produce discharge.

52. (1.) Every seaman on signing articles shall produce a discharge in respect of the capacity in which he wishes to engage, or shall furnish proof that he has served in such other capacities as would under this Act entitle him to ship in respect of such capacity ; but if the seaman makes a statutory declaration that he is entitled to ship, the Superintendent may, upon being satisfied that he is so entitled, and on payment of a fee of five shillings, grant him a permit to sign articles ; provided that a Superintendent may remit the charge if he sees fit.

(2.) Every seaman who makes a false declaration under the last preceding subsection is liable to imprisonment for not exceeding three months.

(3.) When a seaman has signed articles he shall hand his discharge from his last ship to the Superintendent, who shall thereupon cancel that discharge by stamping the word " Re-engaged " over the name of the ship in which he last served.

(4.) Subsections one, two, and three hereof do not apply to steamships plying within restricted limits.

(5.) Every person is liable to a fine not exceeding ten pounds who enters into an agreement with a seaman who does not possess the proper qualifications under this Act for the position for which the seaman is engaged.

(6.) Every person is liable to a fine not exceeding fifty pounds who gives a discharge as A.B. to any person who has not duly served in the capacity and trade for which the discharge is given.

#### *Rating of Greasers and Firemen.*

53. (1.) A person shall not be entitled to the rating of " greaser " unless he has served at least three months as fireman in a steamship



engaged in the home or foreign trade, or for three months in a similar capacity on land, nor as "fireman" unless he has so served at least three months as trimmer, or has served at least three months as fireman in a registered steamship plying within restricted limits, or has served at least three months on land as an engine-driver or fireman.

(2.) Such service shall be proved by certificate of discharge or other satisfactory proof.

(3.) Every person is liable to a fine not exceeding fifty pounds who gives a discharge as greaser or fireman to any person who has not duly served in the capacity and trade for which the discharge is given.

(4.) Nothing in this section shall affect a greaser or a fireman who was rated as such before the coming into operation of this Act.

### *Complement of Crew.*

Ships to carry prescribed number of seamen, &c.

54. (1.) All ships engaged in the home or intercolonial trade, and whether registered in New Zealand or otherwise, shall carry the number of seamen, and if a steamship the number of seamen, greasers, firemen, trimmers, and apprentices or boys, specified in the Fourth Schedule hereto :

Provided that for the purposes of this section two first-year apprentices or one second-year apprentice shall be deemed to be equivalent to one ordinary seaman, and may be carried in his stead :

Provided also that the Superintendent may exempt sailing-ships from the operation of this provision so far as regards apprentices or boys to be carried :

Provided further that the Governor may by Order in Council prescribe the number of greasers, firemen, and trimmers to be carried upon vessels propelled by turbine : and

Provided further that the Minister may exempt hulks while being towed from one port to another from the requirements of the whole or part of this section, subject to such conditions as he sees fit.

(2.) The master and owner of every ship which proceeds on a voyage, or attempts so to proceed, without a full crew as herein specified are liable to a fine not exceeding one hundred pounds.

(3.) If a ship proceeds to sea short by not more than one-fifth of her complement of men in the engine-room, or one-fifth of her complement in the deck department, as prescribed in the Fourth Schedule hereto, and proceedings are taken against the master for a breach of this section, and it is proved to the satisfaction of the Magistrate hearing the case that such breach was in consequence of the man or men absenting himself or themselves shortly before the hour fixed for sailing, or was in consequence of the inability of the master to procure substitutes, then and in that case no fine shall be inflicted for such breach.

(4.) Nothing in this section shall be deemed to affect ships propelled by steam or other mechanical power plying within river limits or extended river limits.

### *Discharge of Seamen.*

Discharge from foreign-going ship to be before Superintendent.

55. (1.) Where a seaman serving in a British foreign-going ship, whether registered within or out of New Zealand, is, on the termination of his engagement, discharged in New Zealand, he shall, whether the agreement with the crew is an agreement for the voyage or a running agreement, be discharged in manner provided by this Act, in the presence of a Superintendent.

(2.) The master or owner of a ship who commits any breach of this section is liable for each offence to a fine not exceeding ten pounds.

(3.) Seamen of home-trade ships shall be discharged in the same manner as seamen discharged from a foreign-going ship; but in the case of a single seaman he may be discharged on board, and the discharge shall be reported to the Superintendent at the first port at which the ship arrives after such discharge, and ratified by him.

### *Seamen entitled to discharge.*

56. (1.) The master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Minister, specifying his rating, the period of his service, and the time and place of his discharge, and shall also return to him any previous discharges belonging to such seaman that may be in his possession; and if the master fails in either case so to do he shall for each offence be liable to a fine not exceeding ten pounds:

Provided that, with the approval of the master and subject to his signing the certificate of discharge, the chief engineer may discharge the greasers, firemen, and trimmers.

(2.) The master shall also, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if without reasonable cause he fails so to do he shall for each offence be liable to a fine not exceeding twenty pounds.

(3.) If the master fails to comply with the provisions of subsections one and two of this section he shall, in addition to the fines provided for thereby, be liable to pay the seaman or officer the sum of one day's pay for every day or part of a day during which such certificate of discharge or certificate of competency is withheld.

(4.) Where a seaman is discharged before a Superintendent, the master shall make and sign, in a form approved by the Minister, a report of the conduct, character, and qualifications of the seaman discharged, or may state in the said form that he declines to give any

opinion upon such particulars, or upon any of them; and the Superintendent before whom the discharge is made shall, if the seaman desires, give to him or indorse on his certificate of discharge a copy of such report (in this Act referred to as "the report of character").

(5.) The Superintendent shall record and retain the reports.

#### Offences as to discharge.

57. Every person is guilty of a crime who—

- (a.) Makes a false report of character under this Act, knowing the same to be false; or
- (b.) Forges or fraudulently alters any certificate of discharge, or report of character, or copy of a report of character; or
- (c.) Assists in committing, or procures to be committed, any of such offences as aforesaid; or
- (d.) Fraudulently uses any certificate of discharge or report of character, or copy of a report of character, which is forged or altered, or does not belong to him.

#### *Payment of Wages.*

Wages to be paid in presence of Superintendent.

58. Where a seaman is discharged before a Superintendent in New Zealand he shall receive his wages through or in the presence of the Superintendent, unless a Court of competent jurisdiction directs otherwise, and in such case if the master or owner of a ship pays his wages within New Zealand in any other manner he shall for each offence be liable to a fine not exceeding ten pounds.

#### Statement of wages to be given.

59. (1.) The master of every ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account, in a form approved by the Minister, of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

(2.) The said account shall be delivered.—

- (a.) Where the seaman is not to be discharged before a Superintendent, to the seaman himself, not less than twenty-four hours before his discharge or payment-off; and
- (b.) Where the seaman is to be discharged before a Superintendent, either to the seaman himself at or before the time of his leaving the ship, or to the Superintendent not less than twenty-four hours before the discharge or payment-off.

(3.) The master of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding five pounds:

Provided that in the case of a home-trade ship twelve hours' notice shall be deemed to be sufficient.

Deductions not allowed unless included in statement.

60. (1.) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of the last preceding section, except in respect of a matter happening after the delivery.

(2.) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amounts of the respective deductions, which shall be initialled or signed by the seaman, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Rule as to payment of wages in foreign-going ships.

61. In the case of foreign-going ships (other than ships employed on voyages for which seamen by the terms of their agreement are wholly compensated by a share in the profits of the adventure)—

(a.) The owner or master of the ship shall pay to each seaman on account, at the time when he lawfully leaves the ship at the end of his engagement, two pounds, or one-fourth of the balance of wages due to him, whichever is least; and shall pay him the remainder of his wages within two clear days (exclusive of any Sunday or public holiday) after he so leaves the ship:

(b.) If the seaman consents, the final settlement of his wages may be left to a Superintendent under regulations of the Minister, and the receipt of the Superintendent shall in that case operate as if it were a release given by the seaman in accordance with this Part of this Act:

(c.) In the event of the seaman's wages or any part thereof not being paid or settled as mentioned in this section, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

In home-trade ships.

62. (1.) The master or owner of every home-trade ship shall pay to every seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first happens.

(2.) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.

(3.) Any sum payable under this section may be recovered as wages.

Wages payable monthly.

63. In the case of home-trade ships and intercolonial-trading steamships, and in ships where the crew are engaged on time agreement, all wages earned shall be paid monthly, on the first day of the month or within seven days after, or as soon thereafter as the ship arrives at any port where there is a branch of any bank :

Provided that Sundays or bank holidays shall not count as days within the meaning of this section.

Seamen to sign a release.

64. (1.) Where a seaman is discharged and the settlement of his wages is completed before a Superintendent he shall sign in the presence of the Superintendent a release, in a form approved by the Minister, of all claims in respect of the past voyage or engagement ; and the release shall also be signed by the master or owner of the ship, and attested by the Superintendent.

(2.) The release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3.) The release shall be retained by the Superintendent, and on production from his custody shall be admissible in evidence in manner provided by this Act.

(4.) Where the settlement of a seaman's wages is by this Act required to be completed through or in the absence of a Superintendent, no payment, receipt, or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5.) Upon any payment being made by a master before a Superintendent the Superintendent shall, if required, sign and give to the master a statement of the whole amount so paid ; and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Superintendent may decide questions as to wages.

65. (1.) Where a question as to wages is raised between the master or owner of the ship and a seaman or apprentice, and the amount in question does not exceed five pounds, the Superintendent may on the application of either party adjudicate, and the decision of the Superintendent in the matter shall be final ; but if the Superintendent is of opinion that the question is one which ought to be decided by a Court of law he may refuse to decide it.

(2.) Where any question, of whatever nature and whatever the amount in dispute, between a master or owner and any of his crew is

raised before a Superintendent, and both parties agree in writing to submit the same to him, the Superintendent shall hear and decide the question so submitted.

(3.) An award made by him upon the submission shall be conclusive as to the rights of the parties, and the submission or award shall not require a stamp; and a document purporting to be the submission or award shall be admissible as evidence thereof.

Superintendent may require production of documents.

66. (1.) In any proceeding under this Act before a Superintendent relating to the wages, claims, or discharge of a seaman the Superintendent may require the owner, or his agent, or the master, or any mate or other member of the crew, to produce any log-books, papers, or other documents in his possession or power relating to a matter in question in the proceeding, and may require the attendance of and examine any of those persons being then at or near the place.

(2.) Every person so required who fails without reasonable cause to comply with the requisition is liable for each offence to a fine not exceeding five pounds.

Wages to be paid at the rate of British sterling.

67. Where a seaman has agreed with the master of a British ship for payment of his wages in British sterling or any other money, any payment of or on account of his wages, if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement for the time being current at the place where the payment is made.

### *Advance and Allotment of Wages.*

Restrictions on advance-notes.

68. (1.) (a.) Where an agreement with the crew is required to be made in a form approved by the Minister the agreement may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement; and

(b.) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(2.) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in New Zealand shall be void; and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages, and a person shall not have any right of action, suit, or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

## Allotment-notes.

(3.) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(4.) Where the agreement is required to be made in a form approved by the Minister the seaman may require that a stipulation be inserted in the agreement for the allotment by means of an allotment-note of any part of his wages agreed upon in favour either of a near relative or of a Post-Office Savings-Bank.

(5.) For the purposes of this section the expression "near relative" means one of the following persons, namely: the wife, father, mother, grandfather, grandmother, child, grandchild, brother, or sister of the seaman.

(6.) Allotment-notes shall be in a form approved by the Minister.

## Allotment in favour of Savings-Bank.

69. (1.) An allotment in favour of the Savings-Bank shall be made in favour of such persons, and carried into effect in such manner as may be prescribed by regulations of the Minister.

(2.) The sum received by the Savings-Bank in pursuance of an allotment shall be paid out only on an application made, through a Superintendent or the Minister, by the seaman himself or, in case of his death, by some person to whom his property, if under one hundred pounds in value, may be paid under this Act.

## Recovery of amount of allotment-note.

70. (1.) The person in whose favour an allotment-note under this Act is made may, unless the seaman is shown, in manner in this Act specified, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted when and as the same are made payable, with costs, from the owner of the ship with respect to which the engagement was made, or from any agent of the owner who has authorised the allotment, in the same Court and manner in which wages of seamen not exceeding fifty pounds may be recovered under this Act:

Provided that the wife of a seaman, if she deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall forfeit all right to further payments under any allotment made in her favour.

(2.) In any proceeding for such recovery it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorised agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court, either—

- (a.) By the official statement of the change in the crew caused by his absence, made and signed by the master, as by this Act is required : or
- (b.) By a certified copy of some entry in the official log-book to the effect that he has left the ship : or
- (c.) By a credible letter from the master of the ship to the same effect : or
- (d.) By such other evidence as the Court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

When payment to be made.

71. Payment under an allotment-note shall begin at the expiration of one month, or, if the allotment is in favour of the Savings-Bank, of three months, from the date of the agreement with the crew, or at such later date as may be fixed by the agreement, and shall be paid at the expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be paid only in respect of wages earned before the date of payment.

### *Seamen's Money-orders.*

Seamen's money-orders may be issued.

72. (1.) In order that facilities may be given for remitting the wages and other moneys of seamen and apprentices to their relatives or other persons by means of seamen's money-orders, the Minister may make arrangements with the Postmaster-General for seamen's money-orders to be issued by the Post Office in accordance with this Act.

(2.) With the concurrence of the Postmaster-General the Minister may make regulations concerning seamen's money-orders, and, in particular, may specify in those regulations the time and mode of payment, and the persons by or to whom the same are to be paid : and all such regulations while in force shall be binding upon all persons interested or claiming to be interested in the orders as well as upon the officers employed in issuing or paying the same.

Payment may be made if order not in payee's possession.

73. The Minister may, if he thinks fit, cause the amount of any seamen's money-order to be paid to the person to whom or in whose favour the same has been granted, or to the personal representative, or any legatee or next-of-kin of such person, notwithstanding that the order may not be in his possession : and from and after the payment the Government of New Zealand, the Postmaster-General, the Minister, and the Post Office shall be freed from all liability in respect of the money-order.



Fraudulent issue of money-order.

74. Every Post officer who grants or issues a seaman's money-order with a fraudulent intent is liable for each offence, on indictment, to imprisonment with hard labour for a term not exceeding five and not less than three years.

*Rights of Seamen in respect of Wages.*

Seamen engaged in New Zealand to be paid current wages.

75. (1.) Notwithstanding anything in this Act, it is hereby declared that where the master, owner, or agent of any ship—

(a.) Engages seamen in New Zealand ; or

(b.) Having engaged them abroad employs them in New Zealand—those seamen while so employed shall be paid and may recover the current rate of wages for the time being ruling in New Zealand ; and in the former case the engagement may be determined in New Zealand at any time after the ship's arrival at her final port of discharge in New Zealand, consequent on the completion of a round voyage, by twenty-four hours' previous notice on either side :

Provided that if the master determines the agreement at any port other than that in which the agreement was originally signed, or the agreement expires by effluxion of time, then any such discharged seaman shall be entitled to a free passage back to the port where the agreement was originally signed if he so desires :

Provided also that this section shall not apply to ships arriving from abroad with passengers or cargo, but not trading in New Zealand further or otherwise than for the purpose of discharging such original passengers or cargo in New Zealand, and there shipping fresh passengers or cargo to be carried abroad :

Provided further that a Superintendent may, upon the application of an officer of a charitable institution, grant a permit in any special case to the master of a ship to engage a seaman at less than the current rate of wages for a particular voyage to be specified in the permit.

(2.) The Superintendent of the port at which a ship loads or discharges cargo carried coastwise shall notify the master of the ship of the provisions of this section ; and the Superintendent is empowered to have the ship's articles indorsed, showing clearly the amount of wages payable.

(3.) The Collector of Customs shall detain the final clearance of such ship until he is satisfied that the crew has been paid the current rate of wages ruling in New Zealand, or any difference between the agreed rate of such seamen's wages and the New Zealand rate of wages.

Right to wages and provisions, when to begin.

76. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to contract out of any right.

77. (1.) A seaman shall not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he may have or obtain in the nature of salvage; and every stipulation in any agreement inconsistent with any provision of this Act shall be void.

(2.) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to any other ship.

Wages not to depend on earning freight.

78. (1.) The right to wages shall not depend on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship proof that the seaman has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim to wages.

(2.) Where a seaman or apprentice who would but for death be entitled under this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Recovery of wages up to discharge.

79. (1.) Where a seaman (wherever engaged) is discharged in New Zealand before completing the full term of his engagement, he shall be paid and may recover the full amount of wages due up to the date of such discharge, notwithstanding the fact that he has not completed such full term.

Where services terminated by wreck or illness.

(2.) Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place abroad under a certificate

granted as provided by this Act of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

(3.) Where a seaman whose services terminate by reason of any of the matters specified in this section has been engaged by the run, he shall be entitled to a proportionate part of the wages he would have been entitled to on the termination of the run, subject to all just deductions, and such proportion shall be calculated up to the termination of his services.

Wages not to accrue during refusal to work or imprisonment.

80. A seaman or apprentice shall not be entitled to wages for any time during which —

- (a.) He unlawfully fails to work when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him; or
- (b.) He is by reason of illness incapable of performing his duty, if it is proved that the illness has been caused by his own wilful act or default.

Cost of procuring conviction may be deducted from wages.

81. Where in any proceeding relating to seamen's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of an offence by a competent tribunal, and rightfully punished for that offence by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Seaman discharged before voyage to be compensated.

82. If a seaman, having signed an agreement, is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Charges upon wages invalid.

83. (1.) As respects wages due or accruing to a seaman or apprentice,—

- (a.) They shall not be subject to attachment or arrestment from any Court;

- (b.) An assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same ;
- (c.) A power of attorney or authority for the receipt thereof shall not be irrevocable ; and
- (d.) A payment of wages to the seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages, or any attachment, incumbrance, or arrestment thereof.

(2.) Nothing in this section shall affect the provisions of this Act with respect to allotment-notes.

### *Mode of recovering Wages.*

Recovery of wages under £50.

84. (1.) A seaman or apprentice, or a person duly authorised on his behalf, may as soon as any wages due to him, not exceeding fifty pounds, become payable sue for the same before a Court of summary jurisdiction in or near the place at which his service has terminated, or at which he has been discharged, or at which any person on whom the claim is made is or resides ; and the order made by the Court in the matter shall be final.

(2.) A proceeding for the recovery of wages not exceeding fifty pounds shall not be instituted by or on behalf of any seaman or apprentice in any Court other than a Court of summary jurisdiction, except—

- (a.) Where the owner of a ship is adjudged bankrupt ; or
- (b.) Where the ship is under arrest, or is sold by the authority of any Court having Admiralty jurisdiction ; or
- (c.) Where a Court of summary jurisdiction, acting under the authority of this Act, refers the claim to any Court having Admiralty jurisdiction ; or
- (d.) Where neither the owner nor the master of the ship is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Where wages exceed £50.

85. (1.) Any Court having Admiralty jurisdiction shall have jurisdiction, and all powers and authorities relating thereto, to try and determine, subject and according to the provisions of this Act, the following causes :—

- (a.) Any claim exceeding fifty pounds by a seaman of any ship for wages earned by him on board the ship, whether the same is due under a special contract or otherwise ;
- (b.) Any claim exceeding fifty pounds by the master of any ship for wages earned by him on board the ship, and for disbursements made by him on account of the ship.

(2.) If in any such cause the plaintiff does not recover fifty pounds he shall not be entitled to any costs, charges, or expenses incurred by him therein, unless the Judge certifies that the cause was a fit one to be tried in such Court.

*Seaman not to sue for wages abroad.*

86. (1.) Where a seaman is engaged for a voyage or engagement which is to terminate in New Zealand, he shall not be entitled to sue in any Court abroad for wages unless he is discharged with such sanction as is required by this Act and with the written consent of the master, or proves such ill-usage on the part or by authority of the master as to warrant reasonable apprehension of danger to his life or health if he were to remain on board.

(2.) If a seaman on his return to New Zealand proves that the master or owner has been guilty of any conduct or default which but for this section would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation, not exceeding twenty pounds, as the Court hearing the case thinks reasonable.

*Master to have same remedies as seaman.*

87. (1.) The master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages as a seaman has under this Act, or by any law or custom.

(2.) The master of a ship, and every person lawfully acting as master by reason of the decease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3.) If in any Admiralty proceeding in any Court having Admiralty jurisdiction touching the claim of a master in respect of wages, or of such disbursements or liabilities as aforesaid, any right of set-off or counterclaim is set up, the Court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

*Power of Court to rescind Contracts.*

*Power to rescind contract between owner and seaman or apprentice.*

88. Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a ship and a seaman or apprentice, arising out of their respective duties as master, seaman, or apprentice, or incidental to their relation as such, or is instituted for the purpose of this section, the Court, if, having regard to all the circumstances of the case, it thinks it just to do so, may

rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the Court thinks just : and this power shall be in addition to any other jurisdiction which the Court can exercise independently of this section.

*Property of Deceased Seamen.*

Master to dispose of effects of deceased seaman.

89. (1.) If any seaman or apprentice belonging to any ship the voyage of which is to terminate in New Zealand, whether a foreign-going or a home-trade ship, dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2.) The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast, or otherwise by public auction.

Entry in official log.

(3.) The master shall enter in the official log-book the following particulars :—

(a.) A statement of the amount of the money and a description of the effects :

(b.) In case of a sale, a description of each article sold, and the sum received for each :

(c.) A statement of the sum due to the deceased for wages, and of the amount of deductions (if any) to be made from the wages.

(4.) The entry shall be signed by the master and attested by a mate or engineer and some other member of the crew.

(5.) The said money, effects, proceeds of sale of effects, and balance of wages are in this Act referred to as the property of the seaman or apprentice.

Notice to be given to Consul where death occurs abroad.

90. (1.) Where a seaman or apprentice dies as aforesaid, and the ship before coming to a port in New Zealand touches and remains for forty-eight hours at some port elsewhere, the master shall report the case to the British consular officer at such port, or, if the port is in the United Kingdom or any British possession, to the officer of Customs there, and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

Consul may require delivery of property.

(2.) That officer may, if he thinks it expedient, require the property to be delivered and paid to him, and shall thereupon give to the master a receipt therefor, and indorse under his hand upon the agreement with the crew such particulars with respect thereto as the Minister requires.

(3.) The receipt shall be produced by the master to a Superintendent within forty-eight hours after his arrival at his port of destination in New Zealand.

Master to account to Superintendent.

(4.) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in New Zealand without touching and remaining as aforesaid at a port elsewhere, or the consular officer or officer of Customs does not require the delivery and payment of the property as aforesaid, the master shall within forty-eight hours after his arrival at his port of destination in New Zealand deliver and pay the property to the Superintendent at that port.

(5.) In all cases where a seaman or apprentice dies during the progress of a voyage or engagement the master shall give to the Minister, or to the Superintendent or officer to whom delivery and payment are made as aforesaid, such account in such form as they respectively require of the property of the deceased.

(6.) A deduction claimed by the master in such account shall not be allowed unless verified by an entry in the official log-book made and attested as required by this Act, and also by such other vouchers (if any) as may reasonably be required by the Minister or by the Superintendent or officer to whom the account is given.

Certificate of compliance.

(7.) A Superintendent in New Zealand shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect; and an officer of Customs shall not clear outwards a foreign-going ship without the production of that certificate.

Failure to comply.

91. (1.) If the master of the ship fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to procuring the proper attestation of those entries as required by this Act, or to the payment or delivery of the property, he shall be accountable for the property to the Minister, and shall pay and deliver the same accordingly, and shall, in addition, for each offence be liable to a fine not exceeding treble the value of the property not accounted for, or, if such value is not ascertained, not exceeding fifty pounds.

(2.) If any such property is not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such property shall be recoverable from him accordingly; and if he fails to account for and deliver or pay the same he shall, in addition to his liability for the same, be liable to a fine not

exceeding treble the value of the property not accounted for, delivered or paid over, or, if such value is not ascertained, not exceeding fifty pounds.

(3.) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

Disposal of property not on board.

92. If any seaman or apprentice belonging to any ship the voyage of which is to terminate in New Zealand, or who has within six months preceding his death belonged to any such ship, dies at any place out of New Zealand, leaving any money or effects not on board the ship to which he belonged at the time of his death, or to which he last belonged before his death, the chief officer of Customs in the case of the United Kingdom or a British possession, and in other cases the British consular officer at or near the place, shall claim and take charge of such money and effects : and such money and effects shall be deemed to be property of a deceased seaman or apprentice within the meaning of this Part of this Act.

Property abroad to be sold and accounted for.

93. (1.) A chief officer of Customs in the United Kingdom or a British possession, and a British consular officer elsewhere, may, as he thinks fit, sell any of the property of a deceased seaman or apprentice delivered to him, or of which he takes charge under this Act, and the proceeds of any such sale shall be deemed to form part of the said property.

(2.) Every such officer shall remit the property in such manner and at such times, and render such accounts in respect thereof, as the Minister or the Imperial Board of Trade requires.

Recovery of wages, &c., of seamen lost with the ship.

94. (1.) Where a seaman or apprentice is lost with the ship to which he belongs the Minister may recover the wages due to him from the owner of the ship, in the same Court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages of other deceased seamen and apprentices under this Act.

(2.) In any proceeding for the recovery of the wages, if it is shown by some official return or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court hearing the case may think probable.



(3.) Any duplicate agreement or list of the crew made out or statement of a change of the crew delivered under this Act at the time of the last departure of the ship from New Zealand, or a certificate purporting to be a certificate from a consular or other public officer at any port out of New Zealand, stating that certain seamen and apprentices were shipped in the ship from the said port, shall, if produced out of the custody of the Minister or of any such officer as aforesaid, be, in the absence of proof to the contrary, sufficient proof that the seamen and apprentices therein named as belonging to the ship were on board at the time of the loss.

Where seaman dies in New Zealand

95. If a seaman or apprentice dies in New Zealand, and is at the time of his death entitled to claim from the master or owner of a ship in which he has served any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the Superintendent at the port where the seaman or apprentice was discharged or was to have been discharged, or to the Minister, or as the Minister directs.

Where value less than £100 may be paid over without administration.

96. (1.) Where any property of a deceased seaman or apprentice comes into the hands of the Minister, or any agents or officers of the Minister or the Department, the Minister, after deducting in respect of expenses incurred in respect of that seaman or apprentice or of his property such sum as he thinks proper to allow, shall, subject to this Act, deal with the residue as follows :—

(a.) If the property exceeds in value one hundred pounds, he shall pay and deliver the residue to the legal personal representative of the deceased :

(b.) If the property does not exceed in value one hundred pounds, the Minister may, as he thinks fit, either pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child of the deceased, or to be entitled to the personality of the deceased either under his will (if any) or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered : or

(c.) The Minister may, if he thinks fit, require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased.

(2.) Every person to whom any such residue is so paid or delivered shall apply the same in due course of administration.

## Where seaman leaves a will.

97. (1.) Where a deceased seaman or apprentice has left a will the Minister may refuse to pay or deliver the above-mentioned residue, —

- (a.) If the will was made on board ship, to any person claiming under the will, unless the will is in writing, and is signed or acknowledged by the testator in the presence of and is attested by the master or first or only mate of the ship; and
- (b.) If the will was not made on board ship, to any person claiming under the will, and not being related to the testator by blood or marriage, unless the will is in writing, and is signed or acknowledged by the testator in the presence of and is attested by two witnesses, one of whom is a Superintendent, or is a minister of religion officiating in the place in which the will is made, or, where there are no such persons, a Justice, British consular officer, or an officer of Customs.

(2.) Where the Minister refuses under this section to pay or deliver the residue to a person claiming under a will, the residue shall be dealt with as if no will had been made.

## Rules as to creditors' claims.

98. (1.) A creditor shall not be entitled to claim from the Minister the property of a deceased seaman or apprentice, or any part thereof, by virtue of representation obtained as creditor.

(2.) A creditor shall not be entitled to obtain payment of his debt out of the property if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.

(3.) The demand shall be made by the creditor delivering to the Minister an account in writing, in a form approved by the Minister, stating the particulars of his demand and the place of his abode, and signed by him and verified by a statutory declaration.

(4.) If, before the demand is made, any claim to the property of the deceased made by any person has been allowed, the Minister shall give notice to the creditor of the allowance of the claim.

(5.) If no claim has been allowed, the Minister shall investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by means of them the creditor satisfies the Minister of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly so far as the property then in the hands of the Minister will extend for that purpose, and the Minister shall thereby be discharged from all further liability in respect of money so paid; but if the Minister is not satisfied as to

the claim, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.

(6.) In any case the Minister may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the property of the deceased is made by any person as widow, next-of-kin, or legatee, and allowed by the Minister under this Act, the Minister may pay and deliver the same to that person.

(7.) Where the property has been paid and delivered by the Minister to any person as a widow, next-of-kin, or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

#### Unclaimed wages.

99. Where no claim to the property of a deceased seaman or apprentice received by the Minister is substantiated within six years after the receipt thereof, the Minister may in his absolute discretion, if any subsequent claim is made, either allow or refuse the claim, and, subject to the allowance of any such claim, such property or the proceeds thereof shall be paid into the Public Account and form part of the Consolidated Fund.

#### Fraudulently obtaining property of a deceased seaman.

100. Every person who for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman or apprentice—

- (a.) Forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property; or
- (b.) Makes use of any document which has been so forged or fraudulently altered as aforesaid; or
- (c.) Gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false; or
- (d.) Makes or assists in making, or procures to be made, any false representation, knowing the same to be false; or
- (e.) Assists in procuring any false evidence or representation to be given or made, knowing the same to be false,—

is liable for each offence on indictment to five years' imprisonment with hard labour, or on summary conviction to twelve months' imprisonment with hard labour.

*Reimbursement of Relief to Seamen's Families.*

Relief to seamen's families to be chargeable on wages.

101. (1.) Where during the absence of any seaman on a voyage his wife, or any of his children or step-children, becomes chargeable to or obtains relief from any Charitable Aid Board, industrial school, or other public institution for the relief of destitute persons in New Zealand, that institution shall be entitled to be reimbursed, out of the wages of the seaman earned during the voyage, any sums properly expended during his absence in the maintenance of those members of his family or any of them, so that the sums do not exceed the following proportions of his wages, that is to say :—

(a.) If only one of those members is chargeable or obtains relief, one-half of the wages :

(b.) If two or more of those members are chargeable or obtain relief, two-thirds of the wages.

(2.) If during the absence of any seaman any sums have been paid by the owner of his ship to or on behalf of any such member as aforesaid under an allotment-note made by the seaman in favour of the member, any claim for reimbursement as aforesaid shall be limited to the excess (if any) of the proportion of the wages hereinbefore mentioned over the sums so paid.

Charge to be enforced on return of seaman.

102. (1.) For the purpose of obtaining reimbursement as aforesaid the governing body of the institution, or such officer thereof as the Minister authorises, may give to the owner or agent of the ship in which the seaman is serving a notice in writing stating the proportion of the seaman's wages upon which it is intended to make a claim, and requiring the owner or agent to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's return to his port of discharge, and also requiring the owner or agent immediately on the seaman's return to give notice in writing thereof to the institution.

(2.) The owner or agent, after receiving any such notice, shall retain the said proportion of wages, and give notice of the seaman's return accordingly, and shall likewise give to the seaman notice of the intended claim.

(3.) The institution may upon the seaman's return apply to a Court of summary jurisdiction for an order for reimbursement, and the Court may make a summary order for the reimbursement to the whole extent claimed, or to such lesser amount as under the circumstances it thinks fit ; and the owner or agent shall pay to the institution out of the seaman's wages the amount so ordered to be paid by way of reimbursement, and shall pay the residue of the wages to the seaman.

(4.) If no order for reimbursement is obtained within the period mentioned in the notice given to the owner or agent as aforesaid, the

proportion of wages to be retained by him shall immediately on the the expiration of that period, and without deduction, be payable to the seaman.

*Leaving Seamen Abroad.*

When ship sold, &c., seamen to be sent home, or otherwise provided for.

103. (1.) In the following cases, namely :—

- (a.) Where a ship registered in New Zealand is transferred or disposed of at any port out of His Majesty's dominions, and a seaman or apprentice belonging thereto does not in the presence of some British consular officer, or, if there is no such officer there, in the presence of one or more respectable British merchants residing at the port and not interested in the ship, signify his consent in writing to complete the voyage if continued ; and
- (b.) Where the service of any seaman or apprentice belonging to any ship registered in New Zealand terminates at any port out of His Majesty's dominions,—

the master shall give to that seaman or apprentice a certificate of discharge in a form approved by the Minister or the Imperial Board of Trade, and, in the case of any certificated officer whose certificate he has retained, shall return such certificate to him.

(2.) The master shall also, besides paying the wages to which the seaman or apprentice is entitled, either—

- (c.) Provide him with adequate employment on board some British ship bound to the port in His Majesty's dominions at which he was originally shipped, or to a port in His Majesty's dominions agreed to by the seaman ; or
- (d.) Furnish the means of sending him back to some such port ; or
- (e.) Provide him with a passage home ; or
- (f.) Deposit with the consular officer or merchants aforesaid such a sum of money as is by the officer or merchants deemed sufficient to defray the expenses of his maintenance and passage home.

(3.) The consular officer or merchants shall indorse upon the agreement with the crew of the ship which the seaman or apprentice is leaving the particulars of any payment, provision, or deposit made under this section.

(4.) If the master fails without reasonable cause to comply with any requirement of this section, the expenses of maintenance or passage home.—

- (g.) If defrayed by the seaman or apprentice, shall be recoverable as wages due to him ; and
- (h.) If defrayed by the consular officer or by any other person, shall (unless the seaman or apprentice has been guilty of barratry) be a charge upon the ship to which the seaman or apprentice belonged, and upon the owner for the time being thereof,

and may be recovered against the owner, with costs, at the suit of the consular officer or other person defraying expenses, or, in case they have been allowed to him out of public money, as a debt to the Crown, either by ordinary process of law or in the manner in which wages can be recovered under this Act.

Forcing seamen ashore a crime.

101. The master of or any other person belonging to a British ship shall not wrongfully force on shore and leave behind, or otherwise wilfully and wrongfully leave behind, in any place on shore or at sea, in or out of His Majesty's dominions, a seaman or apprentice before the completion of the voyage for which he was engaged, or before the return of the ship to the port of His Majesty's dominions from which the voyage commenced, and if he does so he is guilty of a crime.

Seamen not to be left abroad except on certificate of official.

105. (1.) The master of a British ship shall not discharge a seaman or apprentice abroad, or leave him behind, abroad, ashore, or at sea, unless he previously obtains, indorsed on the agreement with the crew, the sanction, or, in the case of leaving behind, the certificate.—

(a.) At any place in His Majesty's dominions, of a Superintendent, or, in the absence of any such Superintendent, then of the chief officer of Customs at or near the place; and

(b.) At any place elsewhere, of the British consular officer for the place, or, in the absence of any such officer, of two merchants resident at or near the place, or, if there is only one merchant so resident, then of that merchant:

but nothing in this section shall require such sanction where the discharge is in the part of His Majesty's dominions where the seaman was shipped.

(2.) The certificate shall state in writing the fact and cause of the seaman being left behind, whether the cause be unfitness, or inability to proceed to sea, desertion, or disappearance.

(3.) The person to whom an application is made for a sanction or certificate under this section may, and if not a merchant shall, examine into the grounds on which a seaman or apprentice is to be discharged or left abroad, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the sanction or certificate as he thinks just.

(4.) A master who commits a breach of this section is guilty of a crime, and in any legal proceeding for the offence it shall lie on the master to prove that the sanction or certificate was obtained or could not be obtained.

(5.) This section shall not apply at any port within the Commonwealth of Australia in the case of men being absent from their ship at the time of sailing.

Wages to be paid when seaman left abroad on ground of inability.

106. (1.) Where a master of a ship registered in New Zealand leaves a seaman or apprentice on shore abroad, whether within or out of His Majesty's dominions, on the ground of his unfitness or inability to proceed on the voyage, he shall deliver to the person signing the certificate above mentioned a full and true account of the wages due to the seaman or apprentice, and, if the said person is a consular officer, shall deliver the account in duplicate.

(2.) Every master who fails without reasonable cause to deliver the account is liable for each offence to a fine not exceeding ten pounds, and if he delivers a false account he shall, in addition to being liable for the payment of the wages, be also liable to a fine not exceeding twenty pounds.

(3.) The master shall pay the amount of wages due to a seaman or apprentice so left abroad as aforesaid, if he is left in His Majesty's dominions, to the seaman or apprentice himself, and if he is left elsewhere, then to the British consular officer.

(4.) The payment shall be made when practicable in money; and, when not so practicable, by bill drawn on the owner of the ship; but if payment is made by bill,—

(a.) The person signing the certificate shall certify by indorsement on the bill that the same is drawn for seamen's wages, and shall also indorse on the agreement with the crew the amount for which the bill is drawn, and such further particulars as the Minister or the Imperial Board of Trade requires:

(b.) If the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon the bill to prove that the master had authority to draw it:

(c.) A bill purporting to be drawn and indorsed under this section shall, if produced out of the custody of the Minister, or of the Imperial Board of Trade in the United Kingdom, or of any Superintendent, be admissible in evidence; and any indorsement on any such bill purporting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the indorsement.

(5.) Every master who fails without reasonable cause to make such payment of wages as provided by this section is liable for each offence to a fine not exceeding ten pounds, in addition to being liable for the payment of the wages.

When payment made to Consul.

107. (1.) Where payment is made to a British consular officer, that officer shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the payment and return it to the

master, and the master shall deliver the duplicate within forty-eight hours of his return to his port of destination in His Majesty's dominions to the Superintendent at that port.

(2.) The British consular officer shall retain the other duplicate of the account, and shall deal with the sum so paid to him in the following manner, namely : -

- (a.) If the seaman or apprentice subsequently obtains employment or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman or apprentice under this Act, except such as the owner or master is by this Act required to defray, and shall pay the remainder to the seaman or apprentice, and deliver to him an account of the sums so received and expended on his behalf :
- (b.) If the seaman or apprentice dies before his ship quits the port, he shall deal with the sum as part of the property of a deceased seaman : and
- (c.) If the seaman or apprentice is sent home to New Zealand at the public expense under this Act, he shall account for the sum to the Minister : and the sum, after deducting any expenses duly incurred in respect of the seaman or apprentice, except such expenses as the master or owner of the ship is required by this Act to pay, shall be dealt with as wages of the seaman or apprentice.

### *Distressed Seamen Abroad.*

Recovery of money advanced for distressed seaman.

108. (1.) Where any expenses on account of any distressed seaman or apprentice, either for his maintenance, necessary clothing, conveyance home, or, in case of death, for his burial, or otherwise in accordance with this Act, are incurred by or on behalf of the Crown, or are incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Crown, those expenses, together with the wages (if any) due to the seaman or apprentice, shall be a charge upon the ship, whether British or foreign, to which such distressed seaman or apprentice belonged, and shall be a debt to the Crown from the master of the ship or from the owner of the ship for the time being, and also, if the ship is a foreign ship, from the person, whether principal or agent, who engaged the seaman or apprentice for service in the ship.

(2.) The debt, in addition to any penalties which may have been incurred, may be recovered by the Minister on behalf of the Crown either by ordinary process of law, or in the Court and manner in which wages may be recovered by seamen.

(3.) In any proceeding for such recovery the production of the account (if any) of the expenses furnished in accordance with this



Act or the distressed seamen regulations, and proof of payment of the expenses by or on behalf of the Minister, or by his direction, shall be sufficient evidence that the expenses were incurred or repaid under this Act by or on behalf of the Crown.

Expenses to be paid out of Consolidated Fund.

109. All expenses paid under this Act by or on behalf of the Crown for the relief of distressed seamen shall be paid out of the Consolidated Fund without further appropriation than this Act, and all sums received or recovered towards those expenses shall be carried to that fund.

*Provisions, Health, and Accommodation.*

Examination of provisions on complaint of crew.

110. (1.) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, they may complain thereof to a Superintendent, or a chief officer of Customs, who thereupon may either examine the provisions or water complained of or cause the same to be examined.

(2.) If the officer or person making the examination finds that the provisions or water are of bad quality, unfit for use, or deficient in quantity, he shall signify it in writing to the master of the ship.

(3.) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality or unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality or unfit for use, he shall for each offence be liable to a fine not exceeding twenty pounds.

(4.) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and send a report thereof to the Minister, and that report shall be admissible in evidence in manner provided by this Act.

(5.) If the officer or person making the examination certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

111. In either of the following cases, that is to say :—

(a.) If during a voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause fails to perform his duty, or is lawfully under confinement for misconduct either on board or on shore) : or

(*b.*) If it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use,—the seaman shall receive by way of compensation for that reduction or bad quality, or unfitness for use, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages, that is to say :—

(*c.*) If his allowance is reduced by not more than one-third of the quantity specified in the agreement, a sum not exceeding one shilling a day :

(*d.*) If his allowance is reduced by more than one-third of that quantity, two shillings per day :

(*e.*) In respect of bad quality or unfitness for use as aforesaid, a sum not exceeding one shilling a day.

But if it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires.

#### Scale of medical stores.

112. (1.) The Minister may from time to time issue scales of medicines and medical stores suitable for different classes of ships and voyages, and may also prepare or sanction books containing instructions for dispensing the same : and in so far as he does not do so the scales issued and books prepared or sanctioned by the Imperial Board of Trade shall apply for the purposes of this Act.

#### Medical stores to be kept according to scale.

(2.) The owner of every ship navigating between New Zealand and any other place shall provide and cause to be kept on board a supply of medicine and medical stores according to the scale appropriate to the ship, and also the said books or one of them.

#### Anti-scorbutics.

(3.) The master or owner of every such ship shall provide and cause to be kept on board a sufficient quantity of anti-scorbutics in accordance with the regulations in the Fifth Schedule hereto, and those regulations shall have effect as part of this section.

(4.) The master shall serve out the anti-scorbutics to the crew according to the said regulations.

(5.) If a seaman or apprentice fails to take the anti-scorbutics when served out, that fact shall be entered in the official log-book, and the entry shall be signed by the master and by the mate or some other of the crew, and also by the medical practitioner on board, if any.

(6.) If any requirement of this section with respect to the provision of medicines, medical stores, book of instruction, or anti-scorbutics is not complied with in the case of any ship to which the requirement applies, the owner or master of that ship shall for each offence be liable to a fine not exceeding twenty pounds, unless he proves that the non-compliance was not caused through his inattention, neglect, or wilful default.

(7.) If any requirement of this section with respect to the serving-out of anti-scorbutics or making an entry in the official log-book is not complied with in the case of any ship to which the requirement applies, the master of the ship shall for each offence be liable to a fine not exceeding five pounds, unless he proves that the non-compliance did not arise through any neglect, omission, or wilful default on his part.

(8.) If it is proved that some person other than the master or owner is in default in any case under this section, that person shall for each offence be liable to a fine not exceeding twenty pounds.

Supplying medical stores of bad quality.

(9.) Every person who manufactures, sells, or keeps or offers for sale any medicines or medical stores for use on board ship which are of bad quality is liable for each offence to a fine not exceeding twenty pounds.

Weights and measures to be provided.

113. (1.) The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used, at the time of serving out the provisions and articles, in the presence of a witness whenever any dispute arises about the quantities.

(2.) The master of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding ten pounds.

Appointment of Medical Inspectors.

114. The Governor may from time to time appoint for one or more ports, or generally for all ports, such Medical Inspectors of Seamen as he thinks fit, and may fix the remuneration of each such Inspector.

Examination of seamen by Medical Inspector.

115. (1.) A Medical Inspector of Seamen shall, on application by the owner or master of any ship, examine any seaman applying for employment in that ship, and give to the Superintendent a report under his hand stating whether the seaman is in a fit state for duty at sea, and a copy of the report shall be given to the master or owner.

(2.) The applicant for that medical examination shall pay to the Superintendent such fees as the Minister directs, and those fees shall be paid into the Public Account and form part of the Consolidated Fund.

## Inspection of provisions on certain voyages.

116. (1.) In the case of ships trading or going from any port of New Zealand through the Suez Canal, or round the Cape of Good Hope or Cape Horn, the barrels of beef and pork, the preserved meat and vegetables in tins, and the casks of flour or biscuits intended for the use of the crew of any such ship shall be inspected by such officer and in such manner as rules under this section direct, but before shipment whenever practicable, and if in the opinion of the inspecting officer they are fit for that use he shall certify the same accordingly in manner directed by such rules.

(2.) The inspecting officer may at any time proceed on board any such ship to ascertain whether the stores and water provided have been duly inspected, or, if not, whether they are of a quality fit for the use of the crew of the ship, and if he finds the same not to have been inspected, and to be deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction.

(3.) No fee for an inspection under this section shall be levied on the ship.

(4.) The Minister may from time to time make rules for carrying this section into effect: but all such rules shall within three weeks after they are made be laid before Parliament if sitting, or if not, then within three weeks after the beginning of the then next session, and shall not come into operation until they have lain before Parliament for forty days.

(5.) The Governor may from time to time appoint officers for the purposes of any inspection under this section, and may fix the remuneration of each such Inspector.

## Expense of medical attendance, maintenance, and burial of injured seaman.

117. (1.) If the master of, or a seaman or apprentice belonging to, a ship receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman, or apprentice until he is cured, or dies, or is brought back to some port in New Zealand, if shipped in New Zealand, or, if shipped in some British possession, to a port of that possession, and of his conveyance to such port, and in case of death the expense (if any) of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages.

(2.) If the master or a seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal, and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.

(3.) The expense of all medicines, surgical and medical advice, and attendance given to a master, seaman, or apprentice while on board his ship shall be defrayed in like manner.

(4.) If a seaman or apprentice is ill and has, through the neglect of the master or owner of the ship, not been provided with proper provisions and water according to his agreement, or with such medicines, medical stores, anti-scorbutics, or accommodation as are required by this Act, then the owner or master, unless it is proved that the illness has been produced by other causes, shall be liable to pay all expenses (not exceeding on the whole three months' wages) properly and necessarily incurred by reason of the illness either by the seaman himself or by the Government of New Zealand or any local authority on his behalf, and those expenses may be recovered as if they were wages duly earned: but this provision shall not affect any further liability of the master or owner for the neglect, or any other remedies possessed by the seaman or apprentice.

#### Recovery of expenses.

118. (1.) If any of the expenses attendant on the illness, hurt, or injury of a seaman or apprentice which are to be paid under this Act by the master or owner are paid by any British consular officer or other person on behalf of the Government of New Zealand, or if any other expenses in respect of the illness, hurt, or injury of any seaman or apprentice whose wages are not accounted for under this Act to that officer are so paid, those expenses shall be repaid to the officer or other person by the master of the ship.

(2.) If the expenses are not so repaid, the amount thereof shall, with costs, be a charge upon the ship, and be recoverable from the master or from the owner of the ship for the time being as a debt to the Crown, either by ordinary process of law or in the same Court and manner as wages due to seamen.

(3.) In any proceeding for such recovery a certificate of the facts, signed by the said officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by that officer or other person.

#### Provision for seaman left ashore when incapacitated.

119. (1.) Where a seaman is left on shore at any place in New Zealand in any manner authorised by law, by reason of illness or accident in the service of the ship incapacitating him from performing his duties, he shall be deemed to be discharged from his ship.

(2.) Where the ship from which any such seaman is left on shore as aforesaid is registered or owned out of New Zealand, and is not an intercolonial ship,—

(a.) The master or agent shall deposit with the Superintendent the full amount of wages then due to that seaman, and,

in addition, a sum not exceeding fifty pounds, for the purpose of defraying any expenses lawfully incurred by the Superintendent for the maintenance of or medical attendance on the seaman so left on shore, or in payment of his passage back to the port of his engagement, or of his burial in case of his death in New Zealand.

- (b.) A clearance shall not be granted to any such ship until this provision has been complied with.
  - (c.) A seaman so left on shore shall, within seven days from the date of his medical attendant certifying that he is convalescent, make application to the Superintendent to be provided with his passage back to the port of his engagement.
  - (d.) Any portion of such fifty pounds not expended as herein specified shall be refunded to the master or agent who paid the same.
- (3.) Where the ship from which any such seaman is left on shore is an intercolonial or home-trade ship,—
- (e.) The master or agent shall deposit with the Superintendent the full amount of wages then due to that seaman, together with a sum equal to his wages to the end of his engagement, according to his agreement, not exceeding a period of three months, and, in addition, such reasonable sum as is estimated by the Superintendent to cover the expenses of the maintenance and medical and other attendance of the seaman in a public hospital until his recovery or the end of his engagement, whichever occurs first, or in the case of intercolonial ships where the engagement expires within one month from the commencement of the illness, then during one month after such expiry.
  - (f.) If on the recovery of such seaman, and after payment of the charges aforesaid, there is any balance of the moneys so deposited, the Superintendent shall apply the same in payment of the wages of the seaman due according to his agreement, up to the expiration of one week after the date of his recovery as certified by his medical attendant, and the remainder thereof (if any) shall be returned to the master or agent who paid the same.
  - (g.) Every such seaman shall, on being so left on shore, be entitled to a certificate or other evidence of his discharge required by law to be given to a seaman on his discharge.
  - (h.) Any seaman entitled to be dealt with under this subsection may require the owner or master of the ship in which he is employed, instead of complying with the foregoing provisions of this subsection, to provide him with a free passage to the port in New Zealand where, in accordance with his

agreement, he would be entitled to be discharged; and if such passage is so provided, and on payment of all wages payable up to the arrival of that seaman at such port, the liability of the owner or master in respect of such seaman shall be deemed to have determined.

- (i.) If the master of a ship leaves any seaman on shore at any place in New Zealand without complying with the provisions of this subsection he shall be liable to a fine not exceeding one hundred pounds.
- (j.) The illness which shall entitle a seaman to the benefits provided for in this section shall be such as wholly to incapacitate him from the performance of his duty, and shall be or appear to be of such a nature as to require or be likely to require medical treatment for a period of not less than fourteen days, and shall, so far as can be ascertained, have been contracted on board or in the service of the ship from which such seaman is so left on shore, or of its owners:

Provided that if the seaman's illness has been caused by his own wilful act or default he shall not be entitled to the benefits herein referred to.

(4.) Payment of wages to a Superintendent under this section shall be deemed a payment to the seaman.

(5.) For the purposes of this section "seaman" includes an apprentice.

Medical officer to be carried on certain ships.

120. (1.) Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some duly qualified medical practitioner; and, if she does not, the owner shall for every voyage of the ship made without a duly qualified medical practitioner be liable to a fine not exceeding one hundred pounds.

(2.) Nothing in this section shall apply to any intercolonial-trading ship or to any emigrant ship within the meaning of Part III of the Imperial Merchant Shipping Act.

Accommodation of mates and engineers.

121. (1.) In all home-trade or intercolonial-trade steamships the owner thereof—

- (a.) Shall make provision to the satisfaction of a Surveyor for the adequate ventilation of the officers' rooms, engine-room, and stoke-hole; and also
- (b.) Shall provide for each mate and engineer, up to at least three, a separate room which does not open direct from the engine-room, but has a separate entrance to the deck otherwise than through the engine-room.

(2.) If default is made in compliance with this section the owner is liable to a fine not exceeding twenty pounds, and to a further fine not exceeding five pounds for every day after the first during which such default continues.

(3.) For the purposes of prosecutions under this section service on the master or agent of the steamship shall be deemed service on the owner.

#### Accommodation of seamen.

122. (1.) Every place in any ship occupied by seamen and appropriated to their use shall have for each of those seamen a space of not less than seventy-two nor more than one hundred and twenty cubic feet, and of not less than twelve nor more than eighteen superficial feet measured on the deck or floor of that place, as the Inspector or Surveyor may require in each case, and shall be subject to the regulations in the Sixth Schedule hereto, and those regulations shall have effect as part of this section.

(2.) If any of the requirements of the last preceding subsection are not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine not exceeding twenty pounds.

(3.) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(4.) If any such place is not so kept free, or if any paint-locker, urinal, water-closet, or latrine is built in or around any such place so as to be detrimental to the health of the seamen, then in every such case the master shall forfeit and pay to each seaman lodged in that place a sum not exceeding ten shillings for each day during which, after complaint has been made to him by any two or more seamen so lodged, it is not so kept free.

(5.) Such fees as the Minister fixes shall be paid in respect of an inspection for the purposes of this section, not exceeding the fees specified in the Sixth Schedule hereto.

(6.) This section shall not apply to steamships which, prior to the first day of January, one thousand eight hundred and ninety-five, were plying within river limits or extended river limits.

(7.) For the purposes of this section "seamen" includes an apprentice.

#### *Facilities for making Complaint.*

Seamen to be allowed to go ashore to complain.

123. (1.) If a seaman or apprentice while on board ship states to the master of the ship his desire to make a complaint to a Superintendent, Collector of Customs, Justice, British consular officer, or officer in command of one of His Majesty's ships, against the master or any of the crew, the master shall, so soon as the service of the ship will permit,—



(a.) If the ship is then at a place where there is such a Justice or officer as aforesaid ; or

(b.) If the ship is not then at such a place, after her first arrival at such a place after such statement,—

allow the complainant to go ashore, or send him ashore in proper custody, or, in the case of complaint to a naval officer, to the ship of such officer, so that he may be enabled to make his complaint.

(2.) The master of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding ten pounds.

### *Deaths and Accidents occurring at Sea.*

*Inquiry into cause of death or accident at sea.*

124. (1.) The master shall, on the arrival of the ship at a port in New Zealand, report to the Superintendent any case of death, or of accident totally incapacitating from work for the time being, and the Superintendent shall inquire into the cause of such death or accident, and shall make in the official log an entry to the effect either that the statement of the cause of death or accident therein contained is in his opinion true, or otherwise, as the result of the inquiry requires ; and every such Superintendent shall, for the purpose of such inquiry, have the powers of a Marine Inspector appointed under this Act.

(2.) If in the course of the inquiry it appears to him that any such death or accident as aforesaid has been caused by violence or other improper means, he shall either report the matter to the Minister, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

(3.) The Superintendent shall report to the Secretary on every inquiry held by him under this section.

### *Protection of Seamen from Imposition.*

*Assignment or sale of salvage invalid.*

125. (1.) Subject to this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same ; and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

(2.) A debt exceeding in amount five shillings incurred by any seaman after he is engaged to serve shall not be recoverable until the service agreed for is concluded.

*Seamen's lodginghouses.*

126. (1.) The Council of any borough or other local authority whose district includes a port may, with the approval of the Minister, make by-laws relating to seamen's lodginghouses in its district, and

those by-laws shall be binding upon all persons keeping houses in which seamen are lodged and upon the owners thereof and persons employed therein.

- (2.) The by-laws shall, amongst other things provide for
- (a.) Licensing, inspecting, and the sanitary conditions of seamen's lodginghouses ;
  - (b.) Publication of the fact of a house being licensed ;
  - (c.) Due execution of the by-laws ;
  - (d.) Preventing the obstruction of persons engaged in securing that execution ;
  - (e.) Preventing persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses ;
  - (f.) Excluding from licensed houses persons of improper character ; and
  - (g.) Imposing sufficient fines, not exceeding fifty pounds, for the breach of any by-laws.

(3.) The by-laws shall come into force from a date therein named, and shall be published in the *Gazette* and in at least one newspaper circulating in the district and designated by the Minister.

(4.) If the local authority does not within a time in each case named by the Minister make, revoke, or alter any by-laws under this section the Minister may do so.

(5.) Where the Governor in Council orders that in any district or any part thereof none but persons duly licensed in pursuance of by-laws under this section shall keep seamen's lodginghouses or let lodgings to seamen from a date therein named, a person acting in breach of that order shall for each offence be liable to a fine not exceeding one hundred pounds.

(6.) A local authority may defray all expenses incurred in the execution of this section out of its general fund, and fines recovered for a breach of this section or of any by-law under this section shall be paid to such authority and added to that fund.

#### Lodginghouse-keepers overcharging seamen.

127. (1.) Every person is liable to a fine not exceeding ten pounds who—

- (a.) Demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein ; or
- (b.) Receives or takes into his possession or under his control any money or effects of a seaman or apprentice, and does not return the same or pay the value thereof when required by the seaman or apprentice, subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith.

(2.) A Magistrate or any two Justices may, besides inflicting a fine, by summary order direct the amount of the money, or the value of the effects, subject to such deduction as aforesaid (if any), or the effects themselves, to be forthwith paid or delivered to the seaman or apprentice.

*Lodginghouse-keepers soliciting seamen.*

128. If within twenty-four hours after the arrival of a ship at a port in New Zealand a person then on board the ship solicits a seaman to become a lodger at the house of a person letting lodgings for hire, or takes out of the ship any effects of a seaman, except under the personal direction of the seaman, and with the permission of the master, he shall for each offence be liable to a fine not exceeding five pounds.

*Persons not to go on board before final arrival of ship without permission.*

129. Where a ship is about to arrive, is arriving, or has arrived at the end of her voyage, and any person, not being in His Majesty's service or not being duly authorised by law for the purpose,—

- (a.) Goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens) : or
- (b.) Being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by any officer of the Marine Department or of the Customs.—

that person shall for each offence be liable to a fine not exceeding twenty pounds, or, at the discretion of the Court, to imprisonment for any term not exceeding six months : and the master of the ship or any officer of the Marine Department or of the Customs may take him into custody, and deliver him up forthwith to a constable to be taken before a Justice or Justices to be dealt with according to the provisions of this Act.

*Provisions as to Discipline.*

*Misconduct endangering ship or life.*

130. Every master, seaman, or apprentice belonging to a ship is guilty of a crime who, by wilful breach of duty or by neglect of duty, or by reason of drunkenness,—

- (a.) Does any act tending directly to the loss, destruction, or serious damage of the ship, or to endanger the life or limb of a person belonging to or on board the ship : or
- (b.) Refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb.

## Assault by officers.

131. Every master, mate, or engineer of a ship who on the high seas as such master, mate, or engineer wilfully assaults any engineer, seaman, or apprentice belonging to the same ship is liable to a fine not exceeding twenty pounds, or to six months' imprisonment.

## Offences by seamen.

132. Every seaman or apprentice who commits any of the following offences is liable to be punished summarily as follows :—

## Desertion.

- (a.) If he deserts from his ship, he shall be liable to one month's imprisonment, or to forfeit all or any part of the wages which he has then earned; and the master or ship-owner shall not be accountable for any effects which such deserter leaves on board, but shall, as far as possible, deliver then up to the Superintendent or Collector of Customs at the place of desertion or at the first port of arrival.

## Absence without leave.

- (b.) If he fails without reasonable cause to join his ship, or to proceed to sea in his ship, or is absent without leave at any time within twenty-four hours of the ship's sailing from a port, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient excuse from his ship or from his duty, he commits the offence of absence without leave, and is liable to forfeit out of his wages a sum not exceeding two days' pay, or any expenses properly incurred in hiring a substitute, and is also liable to fourteen days' imprisonment :

Provided that any dispute arising as to the liability to or amount of such deduction may, with the consent of both parties be decided by the Superintendent.

## Deserter may be conveyed on board.

133. (1.) If in New Zealand a seaman or apprentice is guilty of the offence of desertion, or of absence without leave, or otherwise absents himself from his ship without leave, the master or any mate of the ship may, with or without the assistance of the local constables, convey him on board his ship, and such constables are hereby directed to give assistance if required.

## Or brought before the Court.

(2.) A person so arresting a seaman or apprentice may in any case, and shall in case the seaman or apprentice so requires, convey him before some Court capable of taking cognisance of the matter to

be dealt with according to law, and for that purpose may detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary; but if the seaman or apprentice does not require to be so taken before a Court, or if there is no such Court at or near the place, the person arresting him may at once convey him on board his ship.

Arrest on insufficient grounds.

(3.) If it appears to the Court before which the case is brought that an arrest under this section has been made on improper or on insufficient grounds, the master or mate who made the arrest, or caused it to be made, shall be liable to a fine not exceeding twenty pounds; but the infliction of that fine shall be a bar to any action for false imprisonment in respect of the arrest.

Seaman may be put on board.

(4.) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion, or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, a Magistrate, or, when there is no Magistrate available, then two Justices, may, on the application of the master or of the owner or his agent, notwithstanding that the period of imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

Owner or agent may prosecute seaman.

(5.) When any seaman who has deserted from any ship or has failed without reasonable cause to join his ship or proceed to sea therein is not arrested until—

- (a.) After the departure of such ship from a port in New Zealand; or
- (b.) So shortly before such departure that he cannot conveniently be brought to trial prior to the same; or
- (c.) So shortly before such departure that the master cannot reasonably be expected to attend for the purpose of prosecuting him and producing original documentary evidence against him.—

the owner or agent of the ship may prosecute such offender: and upon the hearing of the charge verified copies of the agreement with the crew and of the entry in the log-book in which respectively such offender's name appears shall be admitted as evidence against him.

Court may order deserter to be conveyed on board.

134. (L.) Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion, or of absence without leave,

or of otherwise absenting himself without leave, the Court, if the master or the owner or his agent so requires, may cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned.

(2.) If a seaman or apprentice of a foreign-going ship, after signing articles, intends to absent himself from his ship or his duty, he may give notice of his intention, either to the owner or to the master of the ship, not less than forty-eight hours before the time at which he ought to be on board his ship: and in the event of that notice being given the Court shall not exercise any of the powers conferred by this section for causing the offender to be conveyed on board the ship.

#### Offences against discipline.

135. (1.) Every seaman or apprentice who commits any of the following offences (in this Act referred to as "offences against discipline") is liable to be punished summarily as follows, that is to say:—

#### Quitting without leave before ship secured.

- (a.) If he quits the ship without leave after her arrival at her port of delivery, and before she is secured in a safe harbour, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay:

#### Disobedience.

- (b.) If while on the high seas he is guilty of wilful disobedience to any lawful command, he shall be liable to a fine not exceeding twenty pounds or to one month's imprisonment; but if the offence is committed after the ship is secured in a safe harbour the punishment shall be a fine not exceeding two pounds or imprisonment not exceeding two days, and he shall also, at the discretion of the Court, be liable to forfeit out of his wages a sum not exceeding two days' pay:

#### Continued disobedience.

- (c.) If while on the high seas he is guilty of continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding twelve weeks, and also, at the discretion of the Court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, any expenses properly incurred in hiring a substitute:

## Combining to disobey.

- (d.) If, while on the high seas, he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to twelve months' imprisonment; but if the offence is committed after the ship is secured in a safe harbour the punishment shall not exceed one month's imprisonment, or, at the discretion of the Court, the forfeiture of one month's wages :

## Assault on officer.

- (e.) If while on the high seas he assaults the master or any mate or certificated engineer of the ship, he shall be liable to a fine not exceeding twenty pounds or to six months' imprisonment :

## Damaging ship, stores, or cargo.

- (f.) If he wilfully damages his ship, or embezzles or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also, at the discretion of the Court, to twelve months' imprisonment :

## Smuggling.

- (g.) If he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to the master or owner a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

(2.) Any imprisonment under this section may be with or without hard labour.

## Other remedies not affected.

136. Where no fine has been imposed, nothing in the last preceding section or the preceding sections relating to the offences of desertion or absence without leave shall take away or limit any remedy by action or by summary procedure before Justices which an owner or master would but for those provisions have for any breach of contract in respect of the matters constituting an offence under those sections, but an owner or master shall not be compensated more than once in respect of the same damage.

## Wages to be paid up to date of arrest.

137. Where a seaman or apprentice is sentenced to any term of imprisonment for any offence described in section one hundred and thirty-two or one hundred and thirty-five hereof, the whole or part

of the wages due up to the date of arrest of the seaman or apprentice so imprisoned shall, in the discretion of the Court, be paid by the master, owner, or agent to the seaman so imprisoned.

False statement as to last ship, or name.

138. (1.) Every seaman who, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, is liable for each offence to a fine not exceeding five pounds.

(2.) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Entry of offence in log.

139. If any offence of desertion, or absence without leave, or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine, and it is intended to enforce the fine,—

- (a.) An entry of the offence or act shall be made in the official log-book, and signed by the master and also by the mate or one of the crew; and
- (b.) The offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and
- (c.) A statement of a copy of the entry having been so furnished, or of the entry having been so read over, and, in either case, the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and
- (d.) In any subsequent legal proceeding the entries by this section required shall, if practicable, be produced or proved, and in default of that production or proof the Court hearing the case may, in their discretion, refuse to receive evidence of the offence or act of misconduct.

Entry of desertion abroad to be produced.

140. In every case of desertion from a ship in any port abroad the master shall produce the entry of the desertion in the official log-book to the person by this Act authorised to grant certificates for leaving seamen behind abroad; and that person shall thereupon make and certify a copy of the entry.



## Deserters list.

141. A Superintendent shall keep at his office a list of the seamen who, to the best of his knowledge and belief, have deserted or failed to join their ships after signing an agreement to proceed to sea in them, and shall on request show the list to a master of a ship, and shall not be liable in respect of any entry made in good faith in the list.

## Proof of desertion.

142. (1.) Where a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement, or, if the voyage was to terminate in New Zealand and the ship has not returned, that he is absent from her, and that an entry of his desertion was duly made in the official log-book.

(2.) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part of this Act, be deemed to be proved, unless the seaman or apprentice produces a proper certificate of discharge, or otherwise shows to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

## Application of forfeited wages.

143. Where any wages or effects are under this Act forfeited for desertion from a ship, those effects may be converted into money, and those wages and effects, or the money arising from the conversion of the effects, shall be applied towards reimbursing the expenses caused by the desertion to the master or owner of the ship, and, subject to that reimbursement, shall be paid into the Public Account.

## Disposal of wages forfeited.

144. Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be handed over to the Superintendent at the first port of call after such forfeiture, who shall pay the same into the Public Account.

## Question of forfeiture, how determined.

145. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

## Forfeiture on running agreement, &amp;c.

146. If a seaman contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of

time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage or run : and if the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Fines for misconduct, how recovered and applied.

147. (1.) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid as follows, that is to say :—

(a.) If the offender is discharged in New Zealand, and the offence and the entry in the log-book required by this Act in respect thereof are proved to the satisfaction, in the case of a foreign-going ship, of the Superintendent before whom the offender is discharged, and, in the case of a home-trade ship, of the Superintendent before whom the crew are discharged, or, if not discharged before a Superintendent, then of the Superintendent by whom the discharge is ratified, the master or owner shall deduct the fine from the wages of the offender, and pay it to the Superintendent :

(b.) If the offender enters His Majesty's naval service, or is discharged abroad before the final discharge of the crew in New Zealand, and the offence and the entry as aforesaid are proved to the satisfaction of the officer in command of the ship he so enters, or of the consular officer or other person by whose sanction he is discharged, as the case may be, the fine shall be deducted as aforesaid and an entry made in the official log-book of the ship and signed by the officer or other person to whose satisfaction the offence is proved : and

(c.) On the return of the ship to New Zealand the master or owner shall pay the fine to the Superintendent hereinbefore mentioned.

(2.) Every master or owner who fails without reasonable cause so to pay the fine is liable for each offence to a fine not exceeding six times the amount of the fine not so paid.

(3.) An act of misconduct for which any fine has been inflicted and paid by or deducted from the wages of the seaman shall not be otherwise punished under this Act.

Enticing to desert.

148. (1.) Every person who by any means persuades or attempts to persuade a seaman or apprentice not to join or proceed to sea in

or to desert from his ship, or otherwise to absent himself from his duty, is liable for each offence in respect of each seaman or apprentice to a fine not exceeding ten pounds.

Harbouring deserter.

(2.) Every person who wilfully harbours or secretes a seaman or apprentice who has wilfully failed to join, or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, shall for every seaman or apprentice so harboured or secreted be liable to a fine not exceeding twenty pounds.

Stowaway.

(3.) Every person who secretes himself and goes to sea in a ship without the consent of either the owner, consignee, or master, or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, is liable to a fine not exceeding twenty pounds, or, in the discretion of the Court, to one month's imprisonment with hard labour.

Seamen compulsorily carried, and stowaways, to be subject to discipline.

149. Every seafaring person whom the master of a ship is, under the authority of this or any other Act, compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be deemed to belong to the ship, and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to a breach of discipline, as if he were a member of the crew and had signed the agreement with the crew.

Seamen undergoing imprisonment may be returned on board.

150. Where a seaman or apprentice engaged in a foreign-going ship is, on summary conviction, committed to prison for any term not exceeding one month, and the ship is about to leave New Zealand before the expiration of that term, the following provisions shall apply:—

- (a.) The Chief Commissioner of Police shall cause such seaman to be taken (under custody) on board such ship, and there delivered to the master within forty-eight hours before she sails, and the master shall keep such seaman on board under custody until the ship has sailed:
- (b.) The travelling and other expenses actually incurred in so doing shall in each instance be paid by the master or owner of the ship, and the ship shall not be cleared at the Customs until the same are paid:
- (c.) A certificate, signed by the principal officer of police at the port of the ship's departure, shall be sufficient evidence of the amount of such expenses, and the master paying the same may deduct the amount from wages due, or to accrue due, to such seaman:

Provided that no ship shall be detained after the appointed sailing-date if such men have not been placed on board.

### *On Change of Master.*

Documents to be handed over on change of master.

151. (1.) If during the progress of a voyage the master is removed or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents in his custody relating to the navigation of the ship and to the crew thereof.

(2.) If he fails without reasonable cause so to do he shall be liable to a fine not exceeding one hundred pounds.

(3.) Such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

### *Official Logs.*

Official logs to be kept.

152. (1.) An official log shall be kept in every ship in the appropriate form for that ship approved by the Minister.

(2.) The Minister shall approve forms of official log-books, which may be different for different classes of ships, so that each such form shall contain proper spaces for the entries required by this Act.

(3.) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log, so that in all cases the spaces in the official log-book be duly filled up.

Entries to be made in due time.

(4.) An entry required by this Act in an official log-book shall be made as soon as possible after the occurrence to which it relates.

Entries, how to be signed.

(5.) Every entry in the official log-book shall be signed by the master and by the mate or some other member of the crew, and also, in the case of an entry—

(a.) Of illness, injury, or death, shall be signed by the surgeon or medical practitioner on board (if any) ; and

(b.) Of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master ; and

(c.) Of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(6.) Every entry made in an official log-book in manner provided by this Act shall be admissible in evidence.

## Penalties in respect of log.

(7.) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall be liable for each offence to the specific fine in this Act mentioned in respect thereof, or, where there is no such specific fine, to a fine not exceeding five pounds.

(8.) Every person commits a crime who wilfully destroys or mutilates or renders illegible any entry in any official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book.

(9.) This section does not apply to steamships plying within river or extended river limits.

## Entries to be made in log.

153. The master shall enter or cause to be entered in the official log-book the following matters, that is to say :—

- (a.) Every conviction by a legal tribunal of a member of his crew, and the punishment inflicted ;
- (b.) Every offence committed by a member of his crew for which it is intended to prosecute, or to enforce a forfeiture or fine, together with such statement concerning the copy or reading-over of that entry, and concerning the reply (if any) made to the charge, as is by this Act required ;
- (c.) Every offence for which punishment is inflicted on board, and the punishment inflicted ;
- (d.) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars ;
- (e.) Every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted (if any) ;
- (f.) Every birth, marriage, or death taking place on board, with the names and ages of the parties ;
- (g.) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof ;
- (h.) The wages due to any seaman who enters His Majesty's naval service during the voyage ;
- (i.) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom ;
- (j.) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and the sum received for it ;
- (k.) Every collision with any other ship, and the circumstances under which the same occurred ;

- (*l.*) Every stranding, or fire, and the circumstances under which the same occurred ; and
- (*m.*) Any other matter directed by this Act to be entered.

Log to be delivered to Superintendent.

154. (1.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in New Zealand, or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the Superintendent before whom the crew is discharged.

(2.) The master or owner of every home-trade ship shall, within twenty-one days of the date of termination of the agreement with the crew, transmit or deliver the official log-book for the preceding half-year to some Superintendent in New Zealand.

(3.) The master or owner of a ship who fails without reasonable cause to comply with this section shall be subject to the same consequences and liabilities to which he is subject for the nondelivery of the list of the crew required to be delivered under this Part of this Act.

On transfer of ship, &c., log to be transmitted to Superintendent.

155. (1.) Where by reason of transfer of ownership or change of employment of a ship the official log ceases to be required in respect of the ship, or to be required at the same date, the master or owner of the ship shall, if the ship is then in New Zealand, within one month, and, if she is elsewhere, within six months, after the cessation deliver or transmit to the Superintendent at the port to which the ship belonged the official log-book duly made out to the time of the cessation.

(2.) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent at the port to which the ship belonged the official log-book, duly made out to the time of the loss or abandonment.

(3.) The master or owner of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding ten pounds.

Chief Engineer to keep an engine-room log.

156. (1.) On every steamship having not less than two engineers the chief engineer shall keep an engine-room log, and the entries required to be made therein shall be signed by the chief engineer and by the engineer on watch at the time of any occurrence being recorded.

(2.) The Minister shall approve forms of the log-book, so that each form shall contain proper spaces for the entries required by this Act.

(3.) An entry required by this section shall be made as soon as possible after the occurrence to which it relates.

(4.) The log-book shall contain full particulars respecting any accident to machinery or boilers, and give the date and time thereof, and state the nature of the accident and what was done to repair the same.

(5.) Entries shall be made in the log-book of the following matters :—

(a.) All telegraph calls from the bridge, as far as possible, giving the time and the nature of such calls respectively, with remarks thereon :

(b.) The number of revolutions daily on each watch, and the pressure of steam, vacuum, amount of fuel consumed, and average speed :

(c.) Full particulars as to the examination of sea connections, docking dates, examination of stern shaft and propeller, testing of main steam-pipe, and of general repairs and overhauls made from time to time in engine-room and stokehold :

(d.) Full particulars as to indicator cards, including date and time when taken, the scale used, the state of the weather, immersion of vessel, diameter of cylinders, length of stroke, boiler pressure, receiver pressures, vacuum, and the revolutions per minute.

(6.) All such indicator cards shall be accessible to the surveyor, and a duplicate set shall be supplied to him for his use at least once every three months.

(7.) Every entry made in an engine-room log-book in manner provided by this section shall be admissible in evidence.

(8.) If an engine-room log-book is not kept in the manner required by this section, or if an entry directed thereby to be made therein is not made at the time and in the manner directed by this section, the chief engineer shall be liable for each offence to a fine not exceeding three pounds.

(9.) Every person who makes, or procures to be made, or assists in making, any entry in an engine-room log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival is liable for each offence to a fine not exceeding twenty pounds.

(10.) Every person commits a crime who wilfully destroys or mutilates or renders illegible any entry in an engine-room log-book, or wilfully makes, or procures to be made, or assists in making a false or fraudulent entry in or omission from an engine-room log-book.

(11.) Nothing in this section shall in any way affect or limit the duties and liabilities imposed by this Act on the master in respect of the official log-book, and the engine-room log-book shall at all times be open to inspection by the master and Surveyor.

(12.) This section does not apply to steamships plying within river limits.

*Mercantile Marine Offices.*

Minister may establish mercantile marine offices and appoint Superintendents.

157. (1.) At any port in New Zealand the Minister may,—

- (a.) At any time establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and appoint all the requisite Superintendents, deputies, clerks, and servants; or
- (b.) With the consent of the Minister of Customs, direct that the whole or any part of the business of a mercantile marine office shall be conducted at the Customhouse, and thereupon the Customhouse shall be a mercantile marine office for the purposes of that business, and any officer of Customs there appointed in that behalf by the Minister shall be a Superintendent or deputy within the meaning of this Act.

*Duties of Superintendent.*

(2.) It shall be the general business of Superintendents of mercantile marine offices (in this Act referred to as "Superintendents")—

To afford facilities for engaging seamen, by keeping registers of their names and characters;

To superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;

To provide means for securing the presence on board at the proper times of the seamen who are so engaged;

To facilitate the making of apprenticeships to the sea service; and

To perform such other duties relating to seamen, apprentices, and ships as are by or in pursuance of this Act, or any Act relating to shipping committed to them.

(3.) Any act done by, to, or before a deputy duly appointed shall have the same effect as if done by, to, or before a Superintendent.

Transactions before Superintendent may be dispersed with in certain cases.

158. The Minister may from time to time dispense with the transaction in a mercantile marine office, or before a Superintendent, of any matters required by this Act to be so transacted, and thereupon those matters, if otherwise duly transacted, shall be as valid as if they were transacted in such an office or before a Superintendent.

*Fees to be paid on discharges and engagements.*

159. (1.) The Minister shall from time to time cause to be prepared scales of fees to be paid in respect of all engagements and discharges effected before a Superintendent.

(2.) Such fees shall not exceed the sums specified in Part I of the Seventh Schedule hereto.

(3.) A copy of such scale shall be conspicuously placed in every mercantile marine office.



(4.) The Superintendent, and his deputy, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees are first paid according to the scale.

(5.) If a Superintendent, or his deputy, clerk, or servant, demands or receives, save as provided by this Act, any remuneration, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall for every such offence be liable to a fine not exceeding twenty pounds, and also to dismissal from his office.

(6.) The fees shall, in the first instance, be paid to the Superintendent by the owner, master, or agent of a ship engaging or discharging seamen before a Superintendent or in a mercantile marine office.

Master may deduct part of fees from wages.

(7.) The owner, master, or agent who has paid any such fees may deduct from the wages of each person so engaged or discharged (except apprentices), and retain for the purpose of reimbursing himself in part, such sums as may from time to time be fixed by the Minister, not exceeding the sums specified in Part II of the Seventh Schedule hereto.

### *Registration of Seamen.*

#### Registrar of Seamen.

160. The Minister may from time to time appoint some fit person to be called the Registrar of Seamen, and such assistants as may be necessary.

#### Registration Office.

(2.) The Minister may appoint some suitable place as the office of the said Registrar, and may direct that the business of the said office shall be there transacted.

#### Register of seamen.

(3.) The Registrar of Seamen shall, by means of the documents transmitted to him in pursuance of this Act, and by any other means in his power, keep at his office a register of all persons who serve in ships subject to this Act.

#### Lists of the crew.

161. (1.) The Master—

(a.) Of a foreign-going ship whose crew is discharged in New Zealand; and

(b.) Of an intercolonial or home trade ship—

shall make out and sign a list (in this Act referred to as “the list of the crew”) in a form approved by the Minister.

(2.) The list of the crew.—

(c.) In the case of a foreign-going ship, shall be delivered by the master within forty-eight hours after the arrival of the ship at her final port of destination in New Zealand, or upon the discharge of the crew, whichever first happens, to the Superintendent before whom the crew is discharged; and

(d.) In the case of an intercolonial or home-trade ship, shall be delivered or transmitted by the master or owner to some Superintendent in New Zealand on or within twenty-one days after the date of termination of the agreement with the crew.

(3.) The Superintendent shall give to such master or owner a certificate of such delivery or transmission, and the ship may be detained until the certificate is produced; and an officer of Customs shall not clear inwards any foreign-going ship until the certificate is produced.

(4.) If the master, in the case of a foreign-going ship, or the master or owner in the case of an intercolonial or home-trade ship, fails without reasonable cause to deliver or transmit the list of the crew as required by this section, he shall for each offence be liable to a fine not exceeding five pounds.

#### In case of transfer or loss of ship.

162. (1.) Where by reason of the transfer of ownership or change of employment of a ship the list of the crew ceases to be required, the master or owner shall, if the ship is then in New Zealand, within one month, and, if she is elsewhere, within six months, after such cessation deliver or transmit to the Superintendent at the port to which the ship belonged the list of the crew, duly made up to the time of the cessation.

(2.) If a ship is lost or abandoned, the master or owner shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent at the port to which the ship belonged the list of the crew, duly made out to the time of the loss or abandonment.

(3.) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding ten pounds.

#### Transmission of documents to Registrar.

163. Every Superintendent and officer of Customs shall take charge of all documents delivered or transmitted to or retained by him in pursuance of this Act, and shall keep them for such time as may be necessary for the purpose of settling any business arising at the place where the documents come into his hands or for any other purpose, and shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar of Seamen.

#### Documents in evidence, &c.

164. The Registrar shall record and preserve all documents so transmitted to him, and such documents shall be admissible in evidence in manner provided by this Act, and shall, on a moderate fee fixed by the Minister, or without payment if the Minister so directs, be open to the inspection of any person.

## Regulations.

165. The Minister may from time to time make regulations for the effectual carrying-out of the provisions of the preceding sections hereof relating to the registration of seamen.

*Pleasure Yachts, Missionary Ships, and Fishing-boats.*

Pleasure yachts and missionary ships exempt from certain provisions.

166. The following provisions of this Part of this Act shall not apply to pleasure yachts under fifty tons register, whether sea-going or running within river or extended river limits, or to the owners, masters, and crews thereof, or to missionary ships, namely: the provisions relating to—

- (a.) The requirement of officers to hold certificates of competency or service, and the production of these certificates;
- (b.) The exemption from stamp duty and record of indentures of apprenticeship, and matters to be done for the purpose of such record;
- (c.) The entry in the agreement with the crew of the particulars respecting apprentices, and matters to be done for the purpose of such entry;
- (d.) The engagement or supply of seamen or apprentices;
- (e.) Agreements with the crew (except the provisions relating to the engagement of a seaman abroad);
- (f.) The compulsory discharge and payment of seamen's wages before a Superintendent, and the compulsory delivery of an account of wages;
- (g.) The accommodation for seamen;
- (h.) The deduction and payment of penalties imposed under stipulations in the agreement;
- (i.) The delivery of documents at ports abroad to consular or Customs officers; or
- (j.) Official log-books:

Provided that the provisions mentioned in paragraphs (a), (c), (g), and (j) of this section shall apply to missionary ships exceeding one hundred tons register.

Fishing-boats exempt from certain provisions.

167. The following provisions of this Part of this Act shall not apply to fishing-boats exclusively employed in fishing on the coasts of New Zealand, whether sea-going or running within river or extended river limits, or to the owners, masters, and crews thereof, namely: the provisions relating to—

- (a.) Compulsory agreements with the crew;
- (b.) The alteration, falsification, or posting-up of copies of agreements with the crew;
- (c.) The delivery of an account of wages;

- (d.) The granting of certificates of discharge, and the return of certificates of competency by the master ;
- (e.) The production of the ships' papers by the master to the Superintendent in proceedings under this Act before him ; or
- (f.) The sections constituting the offences of desertion, absence without leave, and offences against discipline.

\* \* \* \* \*

## PART IV.

### AS TO STEAMSHIPS.

#### *General Equipment of Steamships.*

##### Fire-hose.

187. (1.) A sea-going steamship shall be provided with a hose capable of being connected with the engines, and adapted for extinguishing fire in any part of the ship.

##### Shelter for deck passengers.

(2.) A home-trade steamship shall be provided with such shelter for the protection of deck passengers (if any) as the Minister, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, requires.

##### Safety-valve.

(3.) Every steamship shall be provided with a safety-valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety-valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on the ordinary valve ; each valve to be provided with proper lifting-gear.

(4.) The weight on the safety-valve of a steamship shall not be increased beyond the limits fixed by the Surveyor, and every person who does so is liable for each offence to a fine not exceeding one hundred pounds, in addition to any other liability he may incur by so doing.

(5.) Every person who does anything to the engines of a steamship that will obstruct or tend to obstruct the efficient working of the reversing-gear is liable to a fine not exceeding one hundred pounds.

##### Water and provisions.

(6.) The master of every home-trade steamship shall issue to every passenger a sufficient quantity of water and wholesome provisions (unless such passenger has agreed to provide himself with such water

or provisions): and in default the owner, charterer, or master of such ship shall be liable for every such offence to a fine not exceeding twenty pounds.

(7.) If any steamship plies or goes to sea from a port in New Zealand without being equipped as required by this section, then for each matter in which default is made the owner (if in fault) shall be liable to a fine not exceeding one hundred pounds, and the master (if in fault) shall be liable to a fine not exceeding fifty pounds.

## PART V.

### SHIPS PROPELLED BY OTHER POWER THAN STEAM, AND RESTRICTED-LIMIT STEAMSHIPS.

Provisions as to ships propelled by gas, oil, electricity, &c.

188. With respect to ships propelled by gas, oil, fluid, electricity, or any mechanical power other than steam, the following provisions shall apply:—

(a.) If the ship is five tons net register or over she shall be subject to the provisions of this Act relating to survey and to the carrying of certificated officers:

Provided that if the ship is between five and fifteen tons net register and is not authorised to carry more than twelve passengers within river limits she shall not be subject to the provisions of this Act relating to survey except as regards the first survey after she is built, or, if built out of New Zealand, then when she arrives in New Zealand, and she shall not be required to carry a certificated engineer:

Provided also that the Minister may order the ship to be surveyed at any time after the first survey if he deems it advisable to do so.

(b.) Except as by this section hereinbefore provided, every ship to which this section applies shall have the prescribed number of engineers possessing appropriate certificates of competency or service as to their qualifications to take charge of engines driven either by gas, oil, fluid, electricity, or any mechanical power other than steam respectively which may be issued in accordance with regulations under this Act:

Provided that certificated engineers of steamships shall be entitled to act as engineers of ships to which this section applies.

(c.) The Minister may from time to time make such regulations as he thinks fit for all or any of the following matters, that is to say:—

(i.) The issue of certificates of competency as engineers of ships to which this section applies, such certifi-

icates being, as the Minister thinks fit to prescribe, either of one grade or of different grades, and either generally for all ships to which this section applies or specifically for specific classes of ships, according to the nature of their engines.

(ii.) The examination of candidates for certificates under this section, the subject-matter of the examinations, and the appointment of Examiners.

(iii.) The qualifications to be possessed by candidates for certificates under this section, the fees to be paid for the same, and the mode in which and the events on the happening of which the certificates may be cancelled.

(iv.) Prescribing the number and grade of engineers to be carried by different classes of ships according to the nature of the trade in which the ships are employed, their tonnage, the nature of their engines, or otherwise, as the Minister thinks fit.

(v.) Defining the manner in which the tonnage of ships shall be ascertained for the purposes of this section.

(vi.) Prescribing, with such modifications as he thinks fit, the provisions of this Act relating to steamships which shall apply to ships to which this section applies.

#### Provisions as to restricted-limit steamships.

189. The Minister may from time to time define the limits within which restricted-limit steamships, and ships to which the last preceding section applies and to which restricted-limit certificates are issued, may ply; and may divide such limits into river, extended river, and extreme limits, and such limits when defined shall be gazetted.

## PART VI.

### NEW ZEALAND PILOTS.

Governor may appoint New Zealand pilots.

190. (1.) The Governor may from time to time license pilots, to be called "New Zealand pilots," within New Zealand, subject to such regulations as he may prescribe and to the payment into the Consolidated Fund of an annual fee not exceeding two pounds, and may suspend or cancel any such license.

(2.) A New Zealand pilot may take a vessel from any port of New Zealand to any other such port, but otherwise shall not act as a local pilot at any port unless duly licensed in that behalf by the Harbour Board of such last-named port.

(3.) Every person who acts as a New Zealand pilot without being duly licensed is liable for each offence to a fine not exceeding fifty pounds.

(4.) The Governor may from time to time by Order in Council make regulations determining the qualifications in respect of age, time of service, skill, character, and otherwise, to be required from persons applying to be appointed or licensed as New Zealand pilots, and prescribing their duties.

## PART VII.

### SAFETY.

#### *Prevention of Collisions.*

Owners and masters to observe collision regulations.

191. (1.) All owners and masters of ships shall take notice of all regulations from time to time made on the joint recommendation of the Admiralty, and the Imperial Board of Trade, under section four hundred and eighteen of the Imperial Merchant Shipping Act (hereinafter called "the collision regulations"), and shall so long as the same continue in force obey them, and shall not carry or exhibit any lights, or use any fog-signals, other than those required by such regulations.

(2.) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner is guilty of a crime.

Breach of regulations to imply wilful default.

(3.) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the officer in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the Court that the circumstances of the case made a departure from the regulation necessary.

Liability for breach in case of collision.

(4.) Where in a case of collision it is proved to the Court before whom the case is tried that any of the collision regulations have been infringed, the ship by which the regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the Court that the circumstances of the case made departure from the regulation necessary.

(5.) The Minister shall furnish a copy of the collision regulations to any master or owner of a ship who applies for it.

Inspection for enforcing regulations.

192. (1.) A Surveyor of Ships may inspect any ship, British or foreign, for the purpose of seeing that the ship is properly provided with lights and the means of making fog-signals in conformity with the collision regulations, and if he finds that the ship is not so provided

he shall give to the master or owner notice in writing pointing out the deficiency, and also what is in his opinion requisite in order to remedy the same.

(2.) Every notice so given shall be communicated in the manner directed by the Minister to the Collector of Customs at any port at which the ship may seek to obtain a clearance or transire; and the ship shall be detained until a certificate under the hand of a Surveyor of Ships is produced to the effect that the ship is properly provided with lights, and with the means of making fog-signals, in conformity with the collision regulations.

(3.) For the purpose of an inspection under this section a Surveyor of Ships shall have all the powers of a Marine Inspector under this Act.

(4.) Where a certificate as to lights and fog-signals is refused, the owner may appeal to the Court of Survey for the port or district where the ship for the time being is, in manner directed by the rules of that Court.

(5.) On any such appeal the President of the Court of Survey shall report to the Minister on the question raised by the appeal, and the Minister, when satisfied that the requirements of the report and of this Act as to lights and fog-signals have been complied with, may grant, or direct a Surveyor of Ships or other person appointed by the Minister to grant, the certificate.

(6.) Subject to any order made by the Court of Survey, the costs of and incidental to the appeal shall follow the event.

(7.) A Surveyor in making an inspection under this section shall, if the owner of the ship so requires, be accompanied on the inspection by some person appointed by the owner, and, if in that case the Surveyor and the person so appointed agree, there shall be no appeal under this section to the Court of Survey.

#### Fees for inspection.

(8.) Such fees as the Minister determines, not exceeding those specified in the Ninth Schedule hereto, shall be paid in respect of an inspection of lights and fog-signals under this section.

#### Duties of master in case of collision.

193. (1.) In every case of collision between two ships the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew, and passengers (if any), shall—

- (a.) Render to the other ship, her master, crew, and passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision, and shall stay by the other ship until he has ascertained that there is no need of further assistance; and also



(b.) Give to the master or person in charge of the other ship the name of his own ship and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2.) If the master or person in charge of a ship fails without reasonable cause to comply with this section, he commits a crime, and the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default; and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

Collision to be entered in official log.

194. (1.) In every case of collision in which it is practicable so to do the master of every ship shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log-book, and the entry shall be signed by the master, and also by the mate or one of the crew.

(2.) Every master who fails to comply with this section is liable for each offence to a fine not exceeding twenty pounds.

#### *Report of Accidents and Loss of Ship.*

Accidents to be reported to Minister.

195. (1.) When any ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or (in the case of a steamship) in any part of her machinery, or has been in collision with another ship, the owner or master shall, within twenty-four hours after the happening of the accident or damage, or as soon thereafter as possible, transmit to the Minister, by letter signed by the owner or master, a report of the accident or damage, and of the probable occasion thereof, stating the name of the ship, her official number (if any), the port to which she belongs, and the place where she is.

(2.) Every owner or master of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding fifty pounds.

(3.) This section shall apply to all British ships, and to all foreign ships plying between places in New Zealand.

Notice to be given of apprehended loss of ship.

196. (1.) If the managing owner, or, in the event of there being no managing owner, the agent, of any ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall as soon as conveniently

may be send to the Minister notice in writing of the loss and of the probable occasion thereof, stating the name of the ship, her official number (if any), and the port to which she belongs.

(2.) Every managing owner or agent who fails without reasonable cause to comply with this section within a reasonable time is liable for each offence to a fine not exceeding fifty pounds.

### *Life-saving Appliances.*

Rules as to life-saving appliances.

197. (1.) The Governor may from time to time by Order in Council make rules (in this Act called "rules for life-saving appliances") with respect to all or any of the following matters, namely:—

- (a.) The arranging of British ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;
- (b.) The number and description of the boats, life-boats, life-rafts, life-jackets, and life-buoys to be carried by British ships, according to the class in which they are arranged, and the mode of their construction, also the equipments to be carried by the boats and rafts, and the methods to be provided to get the boats and other life-saving appliances into the water, which methods may include oil for use in stormy weather;
- (c.) The quantity, quality, and description of buoyant apparatus to be carried on British ships carrying passengers, either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets, and life-buoys; and
- (d.) The efficient inspection and testing of the boats, life-jackets, and other life-saving appliances, and the ability of the crew to manage the same.

(2.) All such rules shall have effect as if enacted in this Act.

Ship to be provided with life-saving appliances.

198. The owner and master of every British ship shall see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

Breach of rules.

199. (1.) In the case of any ship—

- (a.) If the ship is required by the rules for life-saving appliances to be provided with such appliances, and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or

- (b.) If any of the appliances so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master ; or
- (c.) If the master fails to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion : or
- (d.) If such appliances are not kept so as to be at all times fit and ready for use,—

then the owner of the ship (if in fault) shall for each offence be liable to a fine not exceeding one hundred pounds, and the master of the ship (if in fault) shall for each offence be liable to a fine not exceeding fifty pounds.

(2.) Nothing in the foregoing enactments with respect to life-saving appliances shall prevent any person from being liable under any other provision of this Act, or otherwise, to any other or higher fine or punishment than is provided by those enactments :

Provided that a person shall not be punished twice for the same offence.

(3.) If the Court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under any other provision of this Act, or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

#### Enforcing rules.

200. (1.) A Surveyor of Ships may inspect any ship for the purpose of seeing that she is properly provided with life-saving appliances in conformity with this Act, and for the purpose of such inspection shall have all the powers of a Marine Inspector under this Act.

(2.) If the Surveyor finds that the ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3.) Every notice so given shall be communicated in the manner directed by the Minister to the Collector of Customs of any port at which the ship may seek to obtain a clearance or transire, and the ship shall be detained until such notice is complied with.

#### *Adjustment of Compasses.*

##### *Ships to have compasses adjusted.*

201. (1.) The compasses of every sea-going ship must be properly adjusted from time to time, and according to such regulations as may be issued by the Marine Department.

(2.) The Minister may from time to time make regulations for the licensing of properly qualified persons to be adjusters of com-

passes, and may prescribe the examination to be passed by applicants for such licenses, and fix the fees to be paid for the adjustment of compasses; and may also make regulations for the adjustment of compasses, and the transmission of deviation tables, and the keeping and inspection of compass-error register-books.

### *Boat-drill.*

Crew to be exercised in boat-drill monthly.

202. (1.) The master of every intercolonial or home-trade ship shall—

- (a.) Cause his crew to be properly exercised in boat-drill once at least in each month in the case of home-trade ships, and in the case of intercolonial ships once at least in the course of each round voyage;
- (b.) Cause entry to be made in the official log of the date of each drill, its duration, the time of its commencement, and the time of its termination;
- (c.) Permit any Superintendent, Surveyor, or Collector, or other officer of Customs, to inspect such entry at any time.

(2.) Every master who fails to comply faithfully with any of the provisions of this section is liable to a fine not exceeding twenty pounds.

### *Signals of Distress.*

Signals of distress to be provided.

203. (1.) Every sea-going steamship shall be provided—

- (a.) With means for making the signals of distress at night specified in the Tenth Schedule hereto, or such other signals as may be substituted therefor by Order in Council under section four hundred and thirty-four of the Imperial Merchant Shipping Act, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Imperial Board of Trade may from time to time approve; and
- (b.) With a proper supply of lights inextinguishable in water, and attached to life-buoys.

(2.) If any such ship goes to sea from any port in New Zealand without being provided as required by this section, then for each default in any of the above requisites the owner (if in fault) shall be liable to a fine not exceeding one hundred pounds, and the master (if in fault) shall be liable to a fine not exceeding fifty pounds.

Using signals unnecessarily.

(3.) Every master of a ship who uses or displays, or causes or permits any person under his authority to use or display, any of those signals of distress except in the case of a ship being in distress is liable

to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress; and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

*Duty of master to assist ship flying signals of distress.*

(4.) It shall be the duty of the master, officer, or person in charge of any ship registered in New Zealand, if and so far as he can without danger to his own ship, crew, and passengers (if any), to proceed to the assistance of any other ship in distress, or that may be flying any of the usual signals of distress, and to save or endeavour to save or assist in saving the lives of any persons on board any such ship, or on any boat, or on any wreckage belonging or near to any such ship or boat; and if any such master or officer knowingly or wilfully commits a breach of this provision he shall be deemed to be guilty of misconduct within the meaning of section two hundred and thirty-nine hereof, and may be proceeded against and dealt with accordingly.

#### *Cables and Anchors.*

*Anchors and chain cables to be tested.*

204. (1.) A maker of or dealer in anchors and chain cables shall not sell or contract to sell, nor shall any person purchase or contract to purchase, for the use of any ship, any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been previously tested and stamped in accordance with the Imperial Act intituled "The Anchors and Chain Cables Act, 1899."

(2.) Every person who commits a breach of this section commits a crime.

*Manufacturers to place marks on anchors.*

205. (1.) Every maker of anchors shall mark each anchor he makes in legible characters on the crown thereof, and also on the shank under the stock, with his name or initials, with the addition of a progressive number and the weight of such anchor.

(2.) Every person who commits a breach of this section is liable to a fine not exceeding five pounds.

#### *Draught of Water, and Load-line.*

*Ship's draught and freeboard to be recorded.*

206. (1.) The Minister may, in any case or class of cases in which he thinks it expedient to do so, direct any person appointed by him for the purpose to record, in such manner and with such particulars as he directs, the draught of water of any sea-going ship, as shown on the scale of feet of her stem and stern-post, and the extent of her freeboard in feet and inches, upon her leaving any dock, wharf, port,

or harbour for the purpose of proceeding to sea : and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Minister.

(2.) That record or copy, if produced out of the custody of the Minister, shall be admissible in evidence in manner provided by this Act.

Particulars to be entered in official log.

(3.) The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water and the extent of her freeboard in the official log-book, and shall produce the record to any Superintendent or Collector of Customs whenever required by him : and if he fails without reasonable cause to produce the record he shall for each offence be liable to a fine not exceeding twenty pounds.

(4.) The master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record : and if any master fails to do so, or impedes, or suffers any one under his control to impede, any person so appointed in the execution of his duty, he shall for each offence be liable to a fine not exceeding five pounds.

Deck-lines to be marked.

207. (1.) Every British ship (except ships under twenty tons register employed solely in the home trade, ships employed solely in fishing, pleasure yachts, and ships plying within restricted limits) shall be permanently and conspicuously marked with lines (in this Act called "deck-lines") of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2.) The upper edge of each of the deck-lines shall be level with the upper side of the deck plank next the waterway at the place of marking.

(3.) The deck-lines shall be white or yellow on a dark ground, or black on a light ground.

Load-line and disc to be marked.

208. (1.) The owner of every British ship proceeding to sea from a port in New Zealand (except ships under twenty tons register employed solely in the home trade, ships employed solely in fishing, pleasure yachts, and ships plying within restricted limits) shall, before the time hereinafter mentioned, mark upon each of her sides, amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

## Position of disc.

(2.) The centre of this disc shall be placed at such level as may be approved by the Minister below the deck-line marked under this Act and specified in the certificate given thereunder, and shall indicate the maximum load-line in salt water to which it shall be lawful to load the ship.

(3.) The position of the disc shall be fixed in accordance with the tables from time to time used by the Imperial Board of Trade, subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under this Act and the position of the line from which freeboard is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may be approved by the Imperial Board of Trade.

(4.) Ships which have the disc marked in accordance with the requirements of the Imperial Board of Trade shall not require to be re-marked under the provisions of this Act.

## Ship whose load-line is submerged to be deemed unsafe.

(5.) If a ship is so loaded as to submerge in salt water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereafter contained in this Part of this Act, and such submersion shall be a reasonable cause for the detention of the ship.

(6.) Any master of a British ship arriving in any port in New Zealand so loaded as to submerge in salt water the centre of the disc shall be liable for each offence to a fine not exceeding one hundred pounds.

## When foreign-going ship to be marked.

209. (1.) Where a ship proceeds on any voyage from a port in New Zealand for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

## Distance between deck-line and load-line to be stated.

(2.) The owner of the ship shall upon entering her outwards insert in the form of entry a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the deck-lines which is above that centre, and if default is made in inserting that statement the ship may be detained.

(3.) The master of the ship shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and a Superintendent shall not proceed with the engagement of the crew until that entry is made.

(4.) The master of the ship shall also enter a copy of that statement in the official log-book.

## Lines to be kept marked

(5.) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until her next return to a port of discharge in New Zealand.

## When home-trading ship to be marked.

210. (1.) Where a ship employed in the home trade is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port; and the owner shall also once in every twelve months, immediately before the ship proceeds to sea, transmit or deliver to the Collector or other chief officer of Customs of the port of registry of the ship a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck-lines which is above that centre.

(2.) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall transmit or deliver to the Collector of Customs of the port of registry of the ship notice in writing of that renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(3.) If default is made in transmitting or delivering any notice or statement under this section, the owner shall for each offence be liable to a fine not exceeding one hundred pounds.

(4.) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until notice is given of an alteration.

## Offences relating to marks.

211. (1.) Every person is liable for each offence to a fine not exceeding one hundred pounds who—

(a.) Being the owner or master of a British ship, fails without reasonable cause to cause his ship to be marked as required by this Part of this Act, or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line; or

(b.) Conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy.

(2.) If any mark required by this Part of this Act is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall for each offence be liable to a fine not exceeding one hundred pounds.

## Regulations as to marks.

212. (1.) The Governor may from time to time by Order in Council make regulations—



- (a.) Determining the lines or marks to be used in connection with the disc in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Act are to have effect as if any such line were drawn through the centre of the disc ;
- (b.) As to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise ;
- (c.) As to the mode of application for and forms of certificates under this Part of this Act ;
- (d.) Requiring the entry of such certificates, and other particulars as to the draught of water and freeboard of the ship, in the official log-book of the ship or other publication thereof on board the ship, and as to delivering copies of such entries ; and
- (e.) Prescribing the fees, not exceeding those specified in the Eleventh Schedule hereto, which shall be paid in respect of surveying and defining the load-line of ships.

(2.) Every person who fails without reasonable cause to comply with any such regulation made with respect to the entry, publication, or delivery of copies of certificates or other particulars as to the draught of water and freeboard of a ship is liable for each offence to a fine not exceeding five hundred pounds, or to twelve months' imprisonment with hard labour.

(3.) Where in pursuance of the regulations any such certificate is required to be delivered, a statement in writing as to the disc and deck-lines of a ship need not be inserted in the form of entry, or transmitted or delivered to a Collector of Customs under the provisions hereinbefore contained.

#### Application to foreign ships.

213. Where the Minister certifies that the laws and regulations for the time being in force in any foreign State with respect to overloading and improper loading are equally effective with the provisions of this Act relating thereto, the Governor, by Order in Council, may direct that on proof of a ship of that State having complied with those laws and regulations she shall not when in a port of New Zealand be liable to detention for non-compliance with the said provisions of this Act, nor shall there arise any liability to any penalty which would otherwise arise for non-compliance with those provisions :

Provided that this section shall not apply in the case of ships of any foreign State in which it appears to the Governor that corresponding provisions are not extended to British ships.

*Dangerous Goods.**Carriage of dangerous goods restricted.*

214. (1.) A person shall not send or attempt to send by any ship, British or foreign, and a person not being the master or owner of the ship shall not carry or attempt to carry in any such ship, any dangerous goods without distinctly marking their nature on the outside of the package containing the same, and upon the same side as the address or mark, and giving written notice of the nature of those goods, and of the name and address of the sender or carrier thereof, to the master or owner of the ship at or before the time of sending the same to be shipped or taking the same on board.

(2.) Every person who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding one hundred pounds; or if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then to a fine not exceeding ten pounds.

*Dangerous goods defined.*

(3.) For the purpose of this Part of this Act the expression "dangerous goods" means aquafortis, vitriol, naphtha, benzine, gunpowder or other explosives, lucifer matches, nitro-glycerine, petroleum, and any other goods which are of a dangerous nature.

(4.) The Minister may from time to time, by notice in the *Gazette*, declare that any goods mentioned in such notice are or are not, as the case may be, dangerous goods within the meaning of this section.

*Misdescribing dangerous goods.*

215. A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any ship, British or foreign, any dangerous goods under a false description, and shall not falsely describe the sender or carrier thereof; and if he acts in breach of this section he shall for each offence be liable to a fine not exceeding five hundred pounds.

*Master may refuse to carry suspected dangerous goods.*

216. (1.) The master or owner of any ship, British or foreign, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

*Dangerous goods may be thrown overboard.*

(2.) Where any dangerous goods, or any goods which in the judgment of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the ship may cause those goods

to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in respect of the goods so thrown overboard.

Dangerous goods improperly sent may be forfeited.

(3.) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any Court having Admiralty jurisdiction may declare those goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the Court directs.

(4.) The Court shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the Court, and has no notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong: nevertheless the Court may, in its discretion, require such notice as it directs to be given to the owner or shipper of the goods before they are forfeited.

Passenger steamships not to carry explosives.

217. (1.) A steamship carrying passengers shall not carry any explosives, except such reasonable quantity as may be required for the purpose of making signals, or as may be allowed by a Surveyor of Ships; and such explosives shall be kept in properly constructed copper magazines, or such other magazines as are declared by the Minister to be proper magazines, or otherwise protected to the satisfaction of a Surveyor of Ships.

(2.) The master or owner of any such steamship on board which any explosives are found contrary to the provisions of this Act is liable for every such offence to a fine not exceeding one hundred pounds.

(3.) Any officer of Customs or surveyor may, without warrant, seize any explosives found on board any ship contrary to this section, and all explosives so seized shall be forfeited.

Explosives defined.

(4.) The term "explosives" in this section means any explosive within the meaning of "The Explosive and Dangerous Goods Act, 1908," except that it does not include safety cartridges for small arms, or caps for cartridges, or caps for muzzle-loading rifles and fowling-pieces.

Saving as to similar provisions in other Acts

218. The provisions of this Part of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise any person to be sued or prosecuted twice in the same matter.

### *Grain Cargoes.*

Stowage of grain cargo.

219. (1.) Where a grain cargo is taken on board any British ship such cargo shall be contained in bags, sacks, or barrels, or other suitable package.

(2.) In the case of any breach of this section the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea shall each be liable to a fine not exceeding three hundred pounds, and the owner of the ship shall also be liable to the same fine unless he shows that he took all reasonable means to enforce the observance of this section and was not privy to the breach thereof.

(3.) For securing the observance of the provisions of this section, any officer having authority in that behalf from the Minister, either general or special, shall have power to inspect any grain cargo and the manner in which the same is stowed, and for that purpose shall have all the powers of a Marine Inspector under this Act.

(4.) The Governor in Council may from time to time make regulations respecting the loading of any British ship with any grain cargo in bulk.

(5.) Until such regulations are made, and subject thereto when made, it shall not be lawful to load any British ship with any grain cargo in bulk.

Grain and grain cargo defined.

(6.) For the purposes of this section—

“Grain” means any corn, potatoes, rice, paddy, pulse, seeds, nuts, or nut kernels :

“Grain cargo” means a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship ; and that third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.

### *Ballast.*

Regulations as to ballast.

220. The Governor may from time to time by Order in Council make regulations respecting the loading and stowage on any British

ship of ballast of any description, and may prescribe a fine not exceeding fifty pounds for breach of such regulations.

*Wool, Flax, Tow, or Skins.*

Condition of wool, flax, tow, or skins to be ascertained before shipment.

221. (1.) No person shall ship wool, flax, tow, or skins on board any ship for the purpose of being conveyed by such ship out of New Zealand in such a condition from dampness or otherwise as to be liable to spontaneous combustion.

(2.) Every person who commits a breach of this section commits a crime, unless he proves that he took all reasonable means before shipping any wool, flax, tow, or skins to ascertain whether they were in such a condition as not to be liable to spontaneous combustion.

*Deck Cargoes.*

Space occupied by deck cargo liable to dues.

222. (1.) If any ship, British or foreign, other than a home-trade ship, carries as cargo in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, any timber, stores, or other goods, excepting fresh fruit, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by such goods at the time at which such dues become payable.

(2.) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to enclose the goods.

(3.) The tonnage of such space shall be ascertained by a Surveyor or an officer of Customs, in manner directed by the tonnage regulations under section six of the Imperial Merchant Shipping Act, and when so ascertained shall be entered by him in the ship's official log-book, and also in a memorandum, which he shall deliver to the master; and the master shall, when the said dues are demanded, produce such memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.

Permit to carry deck cargo.

223. (1.) No ship shall carry any cargo or live-stock on the deck without a permit first obtained from the Collector of Customs specifying what amount of deck cargo may be carried, and such permit may be either special or general; and the Minister may from time to time make regulations as to the issue of such licenses and the appointment of persons to report to the Collectors on the amount of cargo and live-stock so to be carried.

(2.) The term "deck" in this section means the ordinary upper deck of a ship, and any hurricane-deck, flying-deck, or other deck, by whatever name it may be known, above it.

Fee for permit.

(3.) There shall be payable by the owner of every ship in respect whereof a permit or license is issued under this section (and prior to the issue thereof) such fee, not exceeding two pounds, as the Minister from time to time prescribes.

### *Unseaworthy Ships.*

Sending unseaworthy ship to sea.

224. (1.) Every person is guilty of a crime who sends or attempts to send, or is party to sending or attempting to send, a British ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves either that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving that proof he may give evidence in the same manner as any other witness.

(2.) Every master of a British ship is guilty of a crime who knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

(3.) A prosecution under this section shall not be instituted otherwise than by or with the consent of the Minister, or unless not less than one-half of the crew petition the Minister to take action thereunder.

(4.) An offence under this section shall not be punishable upon summary conviction.

Implied obligation as to seaworthiness.

225. (1.) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition during the voyage.

(2.) Nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Power to detain unseaworthy ships.

226. (1.) Where a British ship, being in any port in New Zealand is an unsafe ship—that is to say, is by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, or by reason of undermanning or being insufficiently ballasted, or, in the case of a steamship, by reason of having insufficient coal or other fuel on board for the intended voyage when proceeding at ordinary full speed, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended—such ship may be provisionally detained for the purpose of being surveyed, or ascertaining the sufficiency of her crew or fuel, and either finally detained or released as follows :—

- (a.) The Minister, if he has reason to believe, on complaint or otherwise, that a British ship is unsafe, may order her to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b.) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Minister may, if he thinks fit, appoint some competent person or persons to survey the ship, and where necessary muster the crew, and report thereon to him.
- (c.) The Minister, on receiving the report, may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship, or the supply of fuel, as the Minister thinks necessary for the protection of human life, and may from time to time vary or add to any such order.
- (d.) Before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after that service the owner or master of the ship may appeal to the Court of Survey for the port or district where the ship is detained in manner directed by the rules of that Court.
- (e.) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that such person shall be accompanied by some

person possessing like qualifications with those required to be possessed by Assessors appointed under this Act, as the owner or master may select; and in that case, if the Surveyor and Assessor agree, the Minister shall cause the ship to be detained or released accordingly, but if they differ the Minister may act as if the requisition had not been made; and the owner and master shall have the like appeal touching the report of the Surveyor as is before provided by this section.

(f.) Where a ship has been provisionally detained, the Minister may at any time, if he thinks it expedient, refer the matter to the Court of Survey for the port or district where the ship is detained.

(g.) The Minister may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2.) Any person appointed by the Minister for the purpose (in this Act referred to as a "detaining officer") shall have the same power as the Minister has under this section of ordering the provisional detention of a ship for the purpose of being surveyed, and of appointing a person to detain her: and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(3.) A detaining officer shall forthwith report to the Minister any order made by him for the detention or release of a ship.

(4.) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(5.) A ship detained under this section shall not be released by reason of her British register being subsequently closed.

(6.) The Minister may appoint fit persons to act as detaining officers under this section, and may fix their remuneration.

(7.) A detaining officer shall for the purpose of his duties have all the powers of a Marine Inspector under this Act.

(8.) A detaining officer and a person authorised to survey a ship under this section shall for that purpose have the same power as a person appointed by a Court of Survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

(9.) Where a ship is surveyed or detained under this section, the Minister may direct an inquiry into the condition of her cables and anchors, and, if they have not been tested according to the Imperial Act intituled "The Anchors and Chain Cables Act, 1899," may make such further order as he thinks requisite previous to her release.

#### Unreasonable detention.

227. (1.) If it appears that there was not reasonable cause for the provisional detention of a ship under this Part of this Act as



an unsafe ship, the Minister shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2.) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of that detention an unsafe ship within the meaning of this Part of this Act, the owner of the ship shall be liable to pay to the Minister the costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(3.) For the purpose of this section the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the Surveyor or detaining officer, shall be part of the costs of the detention and survey of the ship, and any dispute as to the amount of those costs may be referred to a Registrar of the Supreme Court, who shall, on request by the Minister, ascertain and certify the proper amount of those costs.

(4.) An action for any costs or compensation payable by the Minister under this section may be brought against him by his official title as if he were a corporation sole.

Security for costs may be required.

228. (1.) Where a complaint is made to the Minister or a detaining officer that a British ship is unsafe, the Minister or officer may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for the costs and compensation which he may become liable to pay as hereinafter mentioned.

(2.) Such security shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not, in the opinion of the Minister or officer, frivolous or vexatious; and the Minister or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3.) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Minister is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Minister all such costs and compensation as the Minister incurs or is liable to pay in respect of the detention and survey of the ship.

Application to foreign ships.

229. Where a foreign ship has taken on board all or any part of her cargo at a port in New Zealand, and is while at that port unsafe by reason of overloading, improper loading, undermanning, or insufficiency of fuel for the intended voyage when proceeding at ordinary

full speed, or by being insufficiently ballasted, the provisions of this Part, of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications :—

- (a.) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port ;
- (b.) Where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Minister to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the Surveyor and that person agree, the Minister shall cause the ship to be detained or released accordingly, but if they differ the Minister may act as if the requisition had not been made ; and the owner and master shall have the like appeal to a Court of Survey touching the report of the Surveyor as is hereinbefore provided in the case of a British ship ; and
- (c.) Where the owner or master of the ship appeals to the Court of Survey, the consular officer, on his request, may appoint a competent person to be Assessor in lieu of the Assessor who, if the ship were a British ship, would be appointed otherwise than by the Minister.

Complaint of unseaworthiness, &c., by crew.

230. (1.) Where in any proceeding against a seaman or apprentice for the offence of desertion or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or, if their number exceeds twenty, by not less than five, of the seamen belonging to the ship that the ship is by reason of unseaworthiness, overloading, improper loading, undermanning, defective equipment, insufficiency of ballast or fuel for the intended voyage when proceeding at ordinary full speed, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognisance of the case shall take such means as it thinks fit to ascertain the truth or otherwise of the allegation.

(2.) For that purpose the Court shall receive the evidence of the persons making the allegation, and may summon any other witnesses whose evidence it may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

(3.) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply

for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.

(4.) For the purposes of this section the Court shall require any Surveyor, or any person appointed for the purpose by the Minister, or if such a Surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other impartial Surveyor appointed by the Court, and having no interest in the ship, her freight, or cargo, to survey the ship and to answer any question concerning her which the Court thinks fit to put.

(5.) Such Surveyor or other person shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court: and the Court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous shall determine the questions before them in accordance with those opinions.

(6.) Any person making a survey under this section shall for the purposes thereof have all the powers of a Marine Inspector under this Act.

(7.) The costs (if any) of the survey shall be determined by the Court according to a scale of fees to be fixed by the Governor in Council, and shall be paid by the master or owner of the ship.

(8.) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the persons on whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to those persons.

(9.) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Minister, and shall be liable to pay to any seaman or apprentice detained in consequence of the proceedings before the Court such compensation for his detention as the Court awards.

Fees payable for survey of ship for seaworthiness.

231. Where a survey of any ship for seaworthiness or efficiency is made under this Act there shall be paid by the master or owner the following fees: For the first survey the sum of two pounds, and for each subsequent survey the sum of one pound.

### *Overloading and Overcrowding.*

Regulations for preventing overloading or overcrowding.

232. The Governor may from time to time by Order in Council make regulations for—

- (a.) Preventing the overloading of either steam or sailing ships, and the overcrowding of sailing-ships with passengers ;
- (b.) Securing the safety of passengers, and proper accommodation for passengers on board of sailing-ships ; and
- (c.) Generally for regulating all other matters relating to the protection of life and property of passengers and others, as the case may be ; and
- (d.) Providing for a fine for every breach of such regulations, not exceeding fifty pounds.

## PART VIII.

### SHIPPING INQUIRIES AND COURTS.

#### *Inquiries as to Shipping Casualties.*

Cases where shipping casualty deemed to occur.

233. For the purpose of inquiries under this Act a shipping casualty shall be deemed to occur—

- (a.) When on or near the coasts of New Zealand any ship is lost, abandoned, or materially damaged ;
- (b.) When on or near the coasts of New Zealand any ship has been stranded or damaged, and any witness is found in New Zealand ;
- (c.) When on or near the coasts of New Zealand any ship has been in collision with or causes loss or material damage to any other ship ;
- (d.)\* When any loss of life ensues by reason of any casualty happening to any ship on or near the coasts of New Zealand ;
- (e.) When in any place any such loss, abandonment, material damage, or casualty as above mentioned occurs, and any witness is found in New Zealand ;
- (f.) When in any place any British ship is stranded or damaged, and any witness is found in New Zealand ;
- (g.) When any British ship is lost, or is supposed to have been lost, and any evidence is obtainable in New Zealand as to the circumstances under which she proceeded to sea or was last heard of.

Preliminary inquiry to be held.

234. (1.) Where a shipping casualty has occurred a preliminary inquiry may be held respecting the casualty by any Collector of Customs or by any other person appointed for the purpose by the Minister.

(2.) For the purpose of any such inquiry the person holding the same shall have the powers of a Marine Inspector or Surveyor under this Act.

## Formal investigation.

235. (1.) A person authorised as aforesaid to make a preliminary inquiry shall in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be held, and in any case where the Minister so directs, apply to a Magistrate or any two Justices sitting as a Court of summary jurisdiction to hold a formal investigation, and that Court shall thereupon hold the formal investigation in the same manner and with the same procedure, as nearly as may be, as in the case of summary proceedings under "The Justices of the Peace Act, 1908."

(2.) The Court holding the formal investigation shall hold the same with the assistance of one or more Assessors, of nautical, engineering, or other special skill or knowledge, to be appointed by the Minister or by the Court.

(3.) Where the formal investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, the Court shall hold the investigation with the assistance of not less than two Assessors having experience in the merchant service, and as far as possible having experience in the trade in which the casualty happens.

(4.) Where the formal investigation involves or appears likely to involve any question as to the cancelling or suspending of the certificate of an engineer, at least one of the Assessors shall be the holder of an engineer's certificate of the first class.

(5.) The person who has applied to the Court to hold a formal investigation shall superintend the management of the case, and render such assistance to the Court as is in his power.

(6.) A Superintendent shall attend the investigation when requested by the Minister to do so, and shall have the right to put questions to witnesses.

(7.) The Court, after hearing the case, shall make a report to the Minister, containing a full statement of the case and of the opinion of the Court thereon, accompanied by such report of or extracts from the evidence, and such observations, as the Court thinks fit: and where the Court cancels or suspends any certificate the Minister shall send a copy of the report to the Imperial Board of Trade.

(8.) Each Assessor shall either sign the report or state in writing to the Minister his dissent therefrom and the reasons for his dissent.

(9.) The Magistrate may order a change of venue.

(10.) The Court may make such order as it thinks fit respecting the costs of the formal investigation, or any part thereof, and such order shall be enforced by the Court as an order for costs under "The Justices of the Peace Act, 1908."

(11.) The Minister may, if in any case he thinks fit, pay the costs of any such formal investigation.

(12.) Every witness shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the Supreme Court.

(13.) For the purposes of this section the Court shall have all the powers of a Magistrate or two Justices in summary proceedings under "The Justices of the Peace Act, 1908."

(14.) The formal investigation shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

(15.) The formal investigation shall be held in some town hall, Courthouse, or public building, or in some other suitable place, to be determined according to rules made under this Act with regard thereto, and, unless no other suitable place is in the opinion of the Minister available, shall not be held in a place ordinarily used as a Police Court; and for the purposes of the investigation the provisions of "The Justices of the Peace Act, 1908," in so far as they are applicable, shall have effect as if the place at which the Court is held were a place appointed for the exercise of the summary jurisdiction of the Magistrate or Justices.

#### Casualty on fishing-vessel.

236. Where any loss of life arises by reason of any casualty happening to any boat belonging to a fishing-vessel, the Minister may, if he thinks fit, cause a preliminary inquiry to be made or a formal investigation to be held as in the case of a shipping casualty, and the provisions of this Act relating thereto shall apply accordingly.

#### Loss of life not caused by shipping casualty.

237. Where any loss of life occurs on any ship not caused by any casualty to the ship, the Minister may, if he thinks fit, cause an inquiry to be held by any Coroner exercising jurisdiction at the port or place at which such loss of life is reported as hereinbefore required; and for the purpose of such inquiry the provisions of "The Coroners Act, 1908," shall, *mutatis mutandis*, apply, notwithstanding that from the circumstances of the case the body cannot be viewed:

Provided that any such inquiry may be held by the Coroner alone, and it shall not be necessary to summon any jury on such inquiry.

#### *Power as to Certificates of Officers, &c.*

##### By whom certificate may be cancelled, &c.

238. (1.) The certificate of a master, mate, or engineer may be cancelled or suspended—

(a.) By the Governor, if it is shown that the holder has been convicted of any offence:

(b.) By the aforesaid Court of summary jurisdiction holding a formal investigation into a shipping casualty as hereinbe-

fore provided, if the Court finds that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default :

Provided that the Court shall not cancel or suspend a certificate unless one at least of the Assessors concurs in the finding of the Court :

- (c.) By a Court of summary jurisdiction holding an inquiry under this Act into the conduct of a master, mate, or engineer, if it finds that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that he has failed to render such assistance to any ship in distress or in a case of collision, or to give such information as is required under Part VII of this Act :
- (d.) By the Supreme Court when under the powers given by this Act the holder of the certificate is superseded or removed by that Court.

(2.) Where any case before any such Court as aforesaid involves a question as to the cancelling or suspending of a certificate, that Court shall, at the conclusion of the case or as soon afterwards as possible, state in open Court the decision to which it has come with respect to the cancelling or suspending thereof.

(3.) The Court shall in all cases send a full report on the case, with the evidence, to the Minister, and shall also, if it determines to cancel or suspend any certificate, send the certificate cancelled or suspended to the Minister with the report.

(4.) Where a certificate is cancelled or suspended, the Minister shall send a copy of such report and evidence to the Imperial Board of Trade, or to the authority which granted the certificate dealt with.

(5.) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report, or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

Minister may investigate alleged misconduct, &c.

239. (1.) If the Minister has any reason to believe that any master, mate, or certificated engineer is from incompetency or misconduct unfit to discharge his duties, or that he has failed to render such assistance to any ship in distress or in case of collision, or to give such information as is required under Part VII of this Act, or that the safety of the ship has been endangered by any accident or occurrence not amounting to a shipping casualty, the Minister may cause an inquiry to be held.

(2.) The Minister may appoint a person to hold the inquiry, or may direct the inquiry to be held before a Magistrate or two Justices sitting as a Court of summary jurisdiction.

(3.) Where the inquiry is held by a person appointed by the Minister, such person --

- (a.) Shall hold the inquiry with the assistance of a Magistrate, or, if there is no Magistrate available, of a competent legal assistant appointed by the Minister; and
- (b.) Shall have all the powers of a Marine Inspector under this Act; and
- (c.) Shall give any master, mate, or engineer against whom a charge is made an opportunity of making his defence either in person or otherwise, and may summon him to appear; and
- (d.) May make such order with regard to the costs of the inquiry as he thinks just; and
- (e.) Shall send a report upon the case to the Minister.

(4.) Where the inquiry is held by a Court of summary jurisdiction, the inquiry shall be conducted and the results reported in the same manner, and the Court shall have the like powers, as in the case of a formal investigation into a shipping casualty under this Act:

Provided that, if the Minister so directs, the person who has brought the charge against the master, mate, or engineer to the notice of the Minister shall conduct the case, and that person shall in that case, for the purpose of this Act, be deemed to be the party having the conduct of the case.

#### Supreme Court may remove master.

240. (1.) The Supreme Court may remove the master of any ship within the jurisdiction of the Court if the removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

(2.) The removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3.) The Court may appoint a new master instead of the one removed; but where the owner, agent, or consignee of the ship is within the jurisdiction of the Court such an appointment shall not be made without the consent of the owner, agent, or consignee.

(4.) The Court may also make such order and require such security in respect of the costs of the matter as it thinks fit.

#### Certificate to be given up on cancellation, &c.

241. (1.) A master, mate, or engineer whose certificate is cancelled or suspended by any Court or by the Governor shall deliver his certificate,—

- (a.) If cancelled or suspended by a Court, to that Court on demand;
- (b.) If not so demanded, or if it is cancelled or suspended by the Governor, to the Minister, or as the Minister may direct.



(2.) If a master, mate, or engineer fails to comply with this section he shall for each offence be liable to a fine not exceeding fifty pounds.

Governor may reissue, &c., certificate.

242. The Governor may, if he thinks that the justice of the case requires it, reissue and return the certificate of a master, mate, or engineer which has been cancelled or suspended under the powers in that behalf given by this Act, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.

#### *Rehearing of Investigations and Inquiries.*

Inquiry may be reheard.

243. (1.) The Minister may, in any case where under this Act a formal investigation as aforesaid into a shipping casualty, or an inquiry into the conduct of a master, mate, or engineer, has been held, order the case to be reheard either generally or as to any part thereof, and shall do so—

- (a.) If new and important evidence is discovered which could not be produced at the investigation or inquiry; or
- (b.) If for any other reason there is in his opinion ground for suspecting that a miscarriage of justice has occurred.

(2.) The Minister may order the case to be reheard either by the Court or authority by whom the case was heard in the first instance or by the Supreme Court, and the case shall be so reheard accordingly.

(3.) Where on any such investigation or inquiry a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer, and an application for a rehearing under this section has not been made, or has been refused, an appeal shall lie from the decision to the Supreme Court.

(4.) Any rehearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as are prescribed by rules made in that behalf under the powers contained in this Act.

#### *Rules of Procedure.*

Minister may make rules of procedure on inquiries.

244. (1.) The Minister may make general rules for carrying into effect the enactments relating to formal investigations, and to the rehearing of or an appeal from any investigation or inquiry held under this Act, and in particular with respect to the appointment and summoning of Assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees, and the place in which formal investigations are to be held.

(2.) Any rule made under this section shall, while in force, have effect as if it were enacted in this Act.

*Limitations as to Inquiries.*

Inquiry not to be held in certain cases.

245. An investigation or inquiry under this Act shall not be made into any matter—

- (a.) Which, after investigation or inquiry, has been reported on by a competent Court or tribunal in any part of His Majesty's dominions out of New Zealand ; or
- (b.) In respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a Naval Court ; or
- (c.) In respect of which an investigation or inquiry has been commenced in the United Kingdom.

*Courts of Survey.*

Constitution of Court.

246. (1.) A Court of Survey for a port shall consist of a Magistrate or two Justices sitting with two Assessors.

(2.) The Assessors shall be persons of nautical, engineering, or other special skill and experience ; subject to the provisions of section two hundred and twenty-nine hereof as regards foreign ships, one of them shall be appointed by the Minister, either generally or in each case, and the other shall be appointed by the said Magistrate or Justices.

(3.) The Clerk of the Magistrate's Court having jurisdiction at the port, or such other fit person as the Governor may from time to time appoint, shall be the Clerk of the Court, and shall, on receiving notice of an appeal or a reference from the Minister, immediately summon the Court to meet forthwith in the prescribed manner.

Power and procedure of Court.

247. (1.) The Court of Survey shall hear every case in open Court.

(2.) Every member of the Court may survey the ship, and shall have for the purposes of this Act all the powers of a Marine Inspector under this Act.

(3.) The Magistrate or Justices may appoint any competent person to survey the ship and report thereon to the Court.

(4.) Every member of the Court, and any person appointed by the Magistrate or Justices to survey a ship, may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, crew, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle ; and every person who wilfully impedes any member of the Court or any such person as aforesaid in the execution of the survey, or fails to comply with any requisition made by him, is liable for each offence to a fine not exceeding ten pounds.

(5.) The Magistrate or Justices shall have the same power as the Minister has to order the ship to be released or finally detained, but unless one of the Assessors concurs in an order for the detention of the ship the ship shall be released.

(6.) The owner and master of the ship, and any person appointed by the owner or master, and also any person appointed by the Minister, may attend at any inspection or survey made in pursuance of this section.

(7.) The Magistrate or Justices shall send to the Minister such report as may be directed by the rules, and each Assessor shall either sign the report or state to the Minister the reasons for his dissent.

Governor may make rules of procedure.

248. The Governor in Council may from time to time make general rules for carrying into effect the provisions of this Act with respect to a Court of Survey, and in particular with respect to the summoning of and procedure before the Court, the requiring security for costs and damages on an appeal, the amount and application of fees, and the publication of the rules; and those rules shall have effect as if enacted in this Act.

### *Scientific Referees.*

Appointment and powers of scientific referees.

249. (1.) If the Minister is of opinion that an appeal to a Court of Survey involves a question of construction or design, or of scientific difficulty or important principle, he may refer the matter to one or more scientific referees from time to time appointed by the Governor possessing the special qualifications necessary for the particular case, and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2.) The Minister, if the appellant in any appeal so requires, and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

(3.) The referees shall have the same powers as a Court of Survey.

### *Payments to Officers of Courts.*

Governor may fix remuneration of officers of Court.

250. There may be paid out of money provided by Parliament to any member of a Court of Survey or investigation under this Part of this Act, Clerk of a Court of Survey, scientific referee, or any other officer or person appointed for the purpose of any Court of Survey or investigation under this Part of this Act, such salary or remuneration (if any) as the Governor directs.

## PART IX.

## WRECK AND SALVAGE.

Wreck and salvage defined.

251. In this Part of this Act, if not inconsistent with the context,—

“Wreck” includes jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water :

“Salvage” includes all expenses properly incurred by the salvor in the performance of the salvage services.

*Appointment of Receivers.*

Minister may appoint Receivers.

252. The Minister shall have the general superintendence of all matters relating to wreck and salvage, and he may from time to time appoint any officer of Customs, or, where it appears to him to be more convenient, any other person, to be a Receiver of Wreck (in this Act referred to as “Receiver”), and may from time to time establish, alter, or abolish districts for the purpose of this Act, and assign a district to any Receiver, and may vary such district from time to time, and may make regulations for the conduct of Receivers.

*Ships in Distress.*

Duty of Receiver where ship stranded or in distress.

253. (1.) Where a ship is wrecked, stranded, or in distress at any place on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, the Receiver for the district shall, upon being informed of the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the ship and of the lives of the persons belonging to the ship (in this Part of this Act referred to as “shipwrecked persons”), and of the cargo and apparel of the ship ; but

(2.) The Receiver shall not interfere between the master and the crew of the ship in reference to the management thereof, unless he is requested to do so by the master ; nor shall he take charge of any ship, cargo, or tackle contrary to the expressed wish of the master or owner thereof or of his agent.

(3.) Every person who wilfully disobeys the direction of the Receiver is liable for each offence to a fine not exceeding fifty pounds.

Powers of Receiver in such case.

254. (1.) The Receiver may, with a view to such preservation of shipwrecked persons or of the ship, cargo, or apparel,—

(a.) Require such persons as he thinks necessary to assist him :

(b.) Require the master or other person having the charge of any ship near at hand to give such aid with his men or ship as may be in his power :

(c.) Demand the use of any wagon, cart, or horses that may be near at hand.

(2.) Every person who refuses without reasonable cause to comply with any such requisition or demand is liable for each refusal to a fine not exceeding one hundred pounds.

#### Right of passage over adjoining lands.

255. (1.) Where a ship is wrecked, stranded, or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the ship, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the ship, unless there is some public road equally convenient, pass and repass, either with or without carriages or horses, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the ship.

(2.) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the ship, cargo, or articles in respect of or by which the damage is occasioned ; and the amount payable in respect of the damage shall in case of dispute be determined, and shall in default of payment be recoverable, in the same manner as the amount of salvage is under this Part of this Act determined or recoverable.

(3.) Every owner or occupier of land is liable for each offence to a fine not exceeding one hundred pounds who—

(a.) Impedes or hinders any person in the exercise of the rights given by this section, by locking his gates, or refusing upon request to open the same, or otherwise ; or

(b.) Impedes or hinders the deposit of any cargo or other article recovered from the ship as aforesaid on the land ; or

(c.) Prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit.

#### Receiver to suppress plunder and disorder.

256. (1.) Where a ship is wrecked, stranded, or in distress as aforesaid, and any person plunders, creates disorder, or obstructs the preservation of the ship, or of the shipwrecked persons, or of the cargo or apparel of the ship, the Receiver may cause that person to be apprehended.

(2.) The Receiver may use force for the suppression of any such plundering, disorder, or obstruction, and may command all His Majesty's subjects to assist him in so using force.

(3.) If any person is killed, maimed, or hurt by reason of his resisting the Receiver or any other person acting under the orders of the Receiver in the execution of the duties by this Part of this Act committed to the Receiver, neither the Receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person being so killed, maimed, or hurt.

In Receiver's absence, who to act.

257. (1.) Where a Receiver is not present the following officers or persons in succession (each in the absence of the other, in the order in which they are named), namely, any Collector of Customs, Magistrate, or Justice, may do anything by this Part of this Act authorised to be done by the Receiver.

(2.) An officer acting under this section for a Receiver shall, with respect to any goods or articles belonging to a ship the delivery of which to the Receiver is required by this Act, be considered as the agent of the Receiver, and shall place the same in the custody of the Receiver; but he shall not be entitled to any fee payable to Receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Receiver to make inquiry.

258. (1.) Where any ship, British or foreign, is or has been in distress on the coasts of New Zealand, a Receiver of Wreck, or in his absence a Justice, shall, as soon as conveniently may be, examine on oath (and they are hereby respectively empowered to administer the oath) any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters, that is to say:—

- (a.) The name and description of the ship;
- (b.) The name of the master and of the owners;
- (c.) The names of the owners of the cargo;
- (d.) The ports from and to which the ship was bound;
- (e.) The occasion of the distress of the ship;
- (f.) The services rendered; and
- (g.) Such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2.) The person holding the examination shall take the same down in writing, and shall send it to the Minister.

(3.) The person holding the examination shall, for the purposes thereof, have all the powers of a Marine Inspector under this Act.

### *Dealing with Wreck.*

Rules to be observed by person finding wreck.

259. (1.) Where any person finds or takes possession of any wreck within the limits of New Zealand he shall,—

(a.) If he is the owner thereof, give notice to the Receiver of the district stating that he has found or taken possession of the wreck, and describing the marks by which the same may be recognised :

(b.) If he is not the owner thereof, as soon as possible deliver the same to the Receiver of the district.

(2.) Every person who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding one hundred pounds, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or, if it is unclaimed, to the person entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Act.

Articles washed ashore to be delivered to Receiver.

260. (1.) Where a ship is wrecked, stranded, or in distress at any place on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, any cargo or other articles belonging to or separated from the ship which may be washed on shore, or otherwise lost or taken from the ship, shall be delivered to the Receiver.

(2.) Every person, whether the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the Receiver or any person authorised by him to demand the same, is liable for each offence to a fine not exceeding one hundred pounds.

(3.) The Receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

Receiver to give notice of wreck.

261. (1.) Where a Receiver takes possession of any wreck, he shall within forty-eight hours cause to be posted in the Customhouse nearest to the place where the wreck was found or was seized by him a description thereof, and of any marks by which it is distinguished.

Owner entitled to wreck on payment of expenses.

(2.) The owner of any wreck in the possession of the Receiver, upon establishing his claim to the same to the satisfaction of the Receiver within one year from the time at which the wreck came into the possession of the Receiver, shall, upon paying the salvage fees and expenses due, be entitled to have the wreck or the proceeds delivered up to him.

Consul deemed owner of foreign ship.

(3.) Where any articles belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of New Zealand, or belonging to and forming part of the cargo, are found on or near

those coasts, or are brought into any port in New Zealand, the Consul of the country to which the ship, or, in the case of cargo, to which the owners of the cargo, belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the articles.

Perishable goods may be sold immediately.

262. (1.) A Receiver may at any time sell any wreck in his custody, if in his opinion—

(a.) It is under the value of five pounds : or

(b.) It is so much damaged or of so perishable a nature that it cannot with advantage be kept : or

(c.) It is not of sufficient value to pay for warehousing.

(2.) The proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver for the same purposes and subject to the same claims, rights, and liabilities as if the wreck had remained unsold.

Removal of wreck.

263. (1.) If any ship is stranded or abandoned on the seashore outside the limits of a harbour, the Minister may by notice in writing require the owner of the ship, within such time as may be specified in the notice, to remove it or any part thereof from the seashore, to the satisfaction of the Minister.

(2.) If the owner fails to comply with such notice, the Minister may remove the wreck, and may recover from the owner in any Court of competent jurisdiction the expenses incurred in removing it.

(3.) The Minister may, for the purpose of removal, destroy the wreck or any part of it, and may remove and take possession thereof and sell the same, and may, out of the proceeds of the sale, reimburse himself for the whole of the expenses of removal, and shall pay the surplus (if any) to the owner.

(4.) If the proceeds of such sale are insufficient to pay the whole expenses of removal, the Minister may recover the balance from the owner.

*Unclaimed Wreck.*

Unclaimed wreck the property of the Crown may be sold.

264. (1.) Where no owner establishes a claim to any wreck found in New Zealand, and in the possession of a Receiver, within one year after it came into his possession, it shall be deemed to be the property of His Majesty, and the Receiver shall sell the same and shall pay the proceeds of sale (after deducting therefrom the expenses of sale and any other expenses incurred by him, and his fees, and paying thereout to the salvors such amount of salvage as the Minister may in each case, or by any general rule, determine) into the Public Account as part of the Consolidated Fund.



Where wreck claimed by more than one.

(2.) Where a dispute arises between two or more persons as to the title to wreck, the dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this Part of this Act.

(3.) If any party to the dispute is unwilling to have the same so referred and determined, or is dissatisfied with the decision on that determination, he may, within three months after the expiration of a year from the time when the wreck came into the Receiver's hands, or from the date of the decision, as the case may be, take proceedings in any Court having jurisdiction in the matter for establishing his title.

Delivery of wreck by Receiver not to prejudice title.

265. Upon delivery of wreck or the payment of the proceeds of sale of wreck by a Receiver under this Part of this Act, the Receiver shall be discharged from all liability in respect thereof; but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

### *Offences in respect of Wreck.*

Taking wreck out of New Zealand.

266. Every person who takes into any place out of New Zealand any ship, stranded, derelict, or otherwise in distress, found on or near the coasts of New Zealand or any tidal water within the limits of New Zealand, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within those limits, and there sells the same, is liable on conviction to imprisonment with hard labour for a term not less than three years and not exceeding five years.

Boarding wreck without leave.

267. Every person who without the leave of the master boards or endeavours to board any ship that is wrecked, stranded, or in distress, unless that person is, or acts by command of, the Receiver or a person lawfully acting as such, is liable for each offence to a fine not exceeding fifty pounds, and the master of the ship may repel him by force.

Obstructing the saving of wreck, or secreting or plundering same.

268. Every person who—

- (a.) Impedes or hinders, or endeavours in any way to impede or hinder, the saving of any ship stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water, or of any part of the cargo or apparel thereof, or of any wreck; or
- (b.) Secretes any wreck, or defaces or obliterates any marks thereon; or

- (c.) Wrongfully carries away or removes any part of a ship stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water, or any part of the cargo or apparel thereof, or any wreck.—

is liable for each offence to a fine not exceeding fifty pounds, in addition to any punishment to which he may be liable by law under this Act or otherwise.

Receiver may seize concealed wreck.

269. (1.) Where a Receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any Justice for a search warrant, and that Justice shall have power to grant such a warrant, and the Receiver, by virtue thereof, may enter any house or other place, wherever situated, and also any ship, and search for, seize, and detain any such wreck there found.

(2.) If any such seizure of wreck is made in consequence of information given by any person to the Receiver, on a warrant being issued under this section the informant shall be entitled by way of salvage to such sum not exceeding in any case five pounds as the Receiver allows.

Unlawful possession.

(3.) Every one who has in his possession, or offers or exposes for sale, any part of the cargo of any ship in distress or wrecked, or anything belonging to such ship, and does not satisfy the Court that he came lawfully by the same, is liable to six months' imprisonment, or to a fine not exceeding twenty pounds, over and above the value of such goods or articles, which shall, by order of the Court, be delivered over to the rightful owner thereof.

### *Salvage.*

Salvage services.

270. (1.) Where services are rendered wholly or in part within New Zealand waters in saving life from any British or foreign ship, there shall be payable to the salvor by the owner of the ship, cargo, or apparel saved a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2.) Salvage in respect of the preservation of life, when payable by the owners of the ship, shall be payable in priority to all other claims for salvage.

(3.) Where the ship, cargo, and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister may in his discretion award to the salvor, out of any moneys voted by Parliament for the purpose, such sum as he thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

*Payment of salvage.*

271. Where any ship is wrecked, stranded, or in distress at any place on or near the coasts or any tidal water within the limits of New Zealand, and services are rendered by any person in assisting that ship, or saving the cargo or apparel of that ship or any part thereof, and where services are rendered by any person other than a Receiver in saving any wreck, there shall be payable to the salvor by the owner of the ship, cargo, apparel, or wreck a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

*Procedure in Salvage.**Disputes as to salvage, how settled.*

272. (1.) Disputes as to the amount of salvage, whether of life or property, arising between the salvor and the owners of any ship, cargo, apparel, or wreck shall, if not settled by agreement, arbitration, or otherwise, be determined summarily in manner provided by this Act in the following cases, namely :—

(a.) In any case where the parties to the dispute consent :

(b.) In any case where the amount claimed does not exceed three hundred pounds.

(2.) Subject as aforesaid, disputes as to salvage shall be determined by the Supreme Court in the exercise of its Admiralty jurisdiction ; but if the claimant does not recover in any such Court more than three hundred pounds he shall not be entitled to recover any costs, charges, or expenses incurred by him in the prosecution of his claim, unless the Court before which the case is tried certifies that the case is a fit one to be tried otherwise than summarily in manner provided by this Act.

(3.) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

(4.) Where a dispute as to salvage is to be determined summarily under this section it shall be referred to the arbitration of and determined by a Magistrate or two Justices, and any such Magistrate or Justices are hereinafter included in the expression “ arbitrators.”

*By whom settled.*

273. (1.) Disputes as to salvage which are to be determined summarily in manner provided by this Act shall,—

(a.) Where the dispute relates to the salvage of wreck, be referred to a Court or arbitrators having jurisdiction at or near the place where the wreck is found :

(b.) Where the dispute relates to salvage in the case of services rendered to any ship, or to the cargo or apparel thereof, or in saving life therefrom, be referred to a Court or arbitrators having jurisdiction at or near the place where the

ship is lying, or at or near the port in New Zealand into which the ship is first brought after the occurrence by reason whereof the claim of salvage arises.

(2.) Any Court or arbitrators to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining that dispute, call to their assistance as Assessor any person conversant with maritime affairs; and there shall be paid, as part of the cost of the proceedings, to every such Assessor in respect of his services such sum not exceeding five pounds as the Minister directs.

#### Appeal to Supreme Court.

274. (1.) Where a dispute relating to salvage has been determined summarily in manner provided by this Act, any party aggrieved by the decision may, if the sum in dispute exceeds one hundred pounds, appeal therefrom to the Supreme Court in its Admiralty jurisdiction.

(2.) The appellant shall within ten days after the date of the award give notice to the arbitrators of his intention to appeal, and shall within twenty days after the date of the award take such proceedings as according to the practice of the Supreme Court are necessary for the institution of an appeal.

(3.) In the case of an appeal the arbitrators shall transmit to the proper officer of the Supreme Court a copy on unstamped paper, certified under their hands to be a true copy, of the proceedings had before them or their umpire (if any), and of the award made by them or him, accompanied with their or his certificate in writing of the gross value of the articles respecting which salvage is claimed; and such copy and certificate shall be admitted in the Supreme Court as evidence in the case.

#### When Justices are arbitrators.

275. (1.) Where a dispute as to salvage is referred to Justices under this Act, the salvors may, by writing addressed to the Justices' clerk, name one Justice, and the owner of the property saved may in like manner name another Justice, to be arbitrators; and if either party fails to name a Justice within a reasonable time the case may be tried by any two or more Justices.

(2.) The Justices to whom the dispute is referred may, if a difference of opinion arises between them, or without such difference if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute.

(3.) The arbitrators within forty-eight hours after any such dispute has been referred to them, and the umpire (if any) within forty-eight hours after his appointment, shall make an award as to the amount of salvage payable, with power, nevertheless, for such arbitrators or umpire, by writing duly signed, to extend the time for so making the award.

(4.) The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.

(5.) There shall be paid to every umpire appointed as aforesaid, in respect of his services, such sum not exceeding five pounds as the Minister directs.

(6.) All the costs of such arbitration, including any such payment to the umpire as aforesaid, shall be paid by the parties to the dispute in such manner and in such shares and proportions as the arbitrators or umpire may direct by the award.

(7.) The Governor may from time to time fix the scale of costs to be awarded in salvage cases determined by arbitrators under this Part of this Act.

#### Valuation of wreck.

276. (1.) Where any dispute as to salvage arises the Receiver of the district may, on the application of either party, appoint a valuer to value the property in respect of which the salvage claim is made.

(2.) The Receiver shall give copies of the valuation to both parties.

(3.) Any copy of the valuation purporting to be signed by the valuer, and certified as a true copy by the Receiver, shall be admissible as evidence in any subsequent proceeding.

(4.) There shall be paid in respect of the valuation, by the person applying for the same, such fee as the Minister directs.

#### Enforcing payment of salvage.

277. (1.) Where salvage is due to any person under this Act the Receiver shall,—

(a.) If the salvage is due in respect of services rendered in assisting any ship, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the ship and cargo or apparel; and

(b.) If the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2.) Subject as hereinafter mentioned, the Receiver shall detain the ship and the cargo and apparel, or the wreck (hereinafter referred to as "detained property"), until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent Court.

(3.) A Receiver may release any detained property if security is given to his satisfaction, or, if the claim for salvage exceeds one thousand pounds and any question is raised as to the sufficiency of the security, to the satisfaction of the Supreme Court in its Admiralty jurisdiction.

(4.) Any security given for salvage in pursuance of this section to an amount exceeding one thousand pounds may be enforced by such Court as aforesaid in the same manner as if bail had been given in that Court.

Receiver may sell wreck in case of non-payment.

278. (1.) The Receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases, namely :—

- (a.) Where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due ; or
- (b.) Where the amount is disputed, but no appeal lies from the first Court to which the dispute is referred, and payment is not made within twenty days after the decision of the first Court ; or
- (c.) Where the amount is disputed, and an appeal lies from the decision of the first Court to some other Court, and within twenty days of the decision of the first Court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.

(2.) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the Receiver in payment of the expenses, fees, and salvage, and the surplus, if any, shall be paid to the owners of the property or any other persons entitled to receive the same.

Voluntary agreement to pay.

279. (1.) Where services for which salvage is claimed are rendered either by the master or crew or part of the crew of any ship, and the salvor voluntarily agrees to abandon his lien upon the property alleged to be salvaged, then, upon the master entering into a written agreement attested by two witnesses to abide the decision of the Supreme Court in its Admiralty jurisdiction, and thereby giving security in that behalf to an amount agreed on by the parties to the agreement, that agreement shall bind the ship and the cargo and freight respectively, and the respective owners of the ship, cargo, and freight, for the salvage which may be adjudged to be payable in respect of the ship, cargo, and freight respectively to the extent of the security given.

(2.) On any such agreement being made, the salvor and the master shall respectively make a statement specifying, so far as those particulars are applicable, the particulars set out in the Twelfth Schedule hereto.

(3.) The salvor shall transmit the statements made as soon as practicable to the Court in which the agreement is to be adjudicated upon.

(4.) Any agreement made under this section may be adjudicated on and enforced in the Supreme Court in its Admiralty jurisdiction.

To whom salvage to be paid on dispute as to apportionment.

280. (1.) Where the aggregate amount of salvage payable in respect of salvage services rendered has been finally determined, either summarily in manner provided by this Act or by agreement, and does not exceed one thousand pounds, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the Receiver for liberty to pay the same to him.

(2.) The Receiver may, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid, and to his ship, cargo, apparel, and effects, against the claims of all persons in respect of the services mentioned in the certificate.

(3.) The Receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same, on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(4.) A distribution made by a Receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Supreme Court may apportion.

281. Where the aggregate amount of salvage payable in respect of salvage service rendered has been finally ascertained, and exceeds three hundred pounds, then, if any delay or dispute arises as to the apportionment thereof, the Supreme Court in its Admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect, and may compel any person in whose hands or under whose control the amount may be to distribute the same, or to bring the same into Court to be there dealt with as the Court directs, and may for the purposes aforesaid issue such processes as it thinks fit.

### *Fees of Receivers of Wreck.*

Fees to be paid to Receiver.

282. (1.) There shall be paid to every Receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the Thirteenth Schedule

hereto, such fees not exceeding the amounts therein mentioned as may be directed by the Governor in Council, but a Receiver shall not be entitled to any remuneration other than those payments.

(2.) The Receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3.) Where any dispute arises in any part of New Zealand as to the amount payable to any Receiver in respect of expenses or fees, that dispute shall be determined by the Minister, whose decisions shall be final.

(4.) All fees received by a Receiver in respect of any services performed by him as Receiver shall be paid into the Public Account and form part of the Consolidated Fund.

### *Duties on Wreck.*

Foreign wreck subject to duties as an importation.

283. (1.) All wreck, being foreign goods brought or coming into New Zealand, shall be subject to the same duties as if the same was imported into New Zealand; and if any question arises as to the origin of the goods they shall be deemed to be the produce of such country as the Minister may on investigation determine.

May be forwarded to destination.

(2.) The Minister may permit all goods saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port of her original destination, and all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which the same were shipped; but the Minister shall take security for the due protection of the revenue in respect of those goods.

\* \* \* \* \*

## PART XI.

### LIABILITY OF SHIPOWNERS.

Owner, &c., not liable in certain cases.

293. If the owner of any ship transporting merchandise or property to or from any port in New Zealand exercises due diligence to make the ship in all respects seaworthy and properly manned, equipped, and supplied, neither the ship, her owners, charterers, or agent shall become or be held responsible for damage or loss resulting from faults or errors in navigation or in the management of the ship, nor shall the ship, her owners, charterers, agent, or master be held liable for losses arising from dangers of the sea or other navigable waters, acts of God, or public enemies, or the inherent defect, quality, or vice of



the thing carried, or from insufficiency of package, or seizure under legal process, or for loss resulting from any act or omission of the shipper or owner of the goods, his agent or representative, or from saving or attempting to save life or property at sea, or from any deviation in rendering such service.

Limitation of shipowners' liability for loss or damage to goods.

294. The owner of a British ship, or of any share therein, shall not be liable to make good to any extent any loss or damage happening without his actual fault or privity in the following cases, namely :—

- (a.) Where any goods taken in or put on board his ship are lost or damaged by reason of fire on board the ship ; or
- (b.) Where any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board his ship, the true nature and value of which were not at the time of shipment declared by the owner or shipper thereof to the owner or master of the ship in the bills of lading or otherwise in writing, are lost or damaged by reason of any robbery, embezzlement, making away with, or secreting thereof.

Limitation in case of loss of life, &c.

295. (1.) The owners of a ship, British or foreign, shall not, where all or any of the following occurrences take place without their actual fault or privity, that is to say :—

- (a.) Where any loss of life or personal injury is caused to any person being carried in their ship :
- (b.) Where any damage or loss is caused to any goods on board their ship :
- (c.) Where any loss of life or personal injury is caused to any person carried in any other ship by reason of the improper navigation of their ship :
- (d.) Where any loss or damage is caused to any other ship, or to any goods on board any other ship, by reason of the improper navigation of their ship,—

be liable to damages beyond the following amounts :—

- (e.) In respect of loss of life or personal injury, either alone or together with loss of or damage to ships or goods, an aggregate amount not exceeding fifteen pounds for each ton of their ship's tonnage ; and
- (f.) In respect of loss of or damage to ships or goods, whether there is in addition loss of life or personal injury or not, an aggregate amount not exceeding eight pounds for each ton of their ship's tonnage.

(2.) The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to ships or goods arising on distinct occasions, to the same extent as if no other loss, injury, or damage had arisen.

## Tonnage, how calculated.

296. For the purposes of the last preceding section—

- (a.) The tonnage of a steamship shall be her gross tonnage without deduction on account of engine-room ; and the tonnage of a sailing-ship shall be her registered tonnage :

Provided that there shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use which is certified under the regulations with regard thereto in the Sixth Schedule hereto.

- (b.) Where a foreign ship has been or can be measured according to British law, her tonnage as ascertained by that measurement shall, for the purpose of this section, be deemed to be her tonnage.

- (c.) Where a foreign ship has not been and cannot be measured according to British law, the Chief Surveyor shall, on receiving from or by the direction of the Court hearing the case in which the tonnage of the ship is in question such evidence concerning the dimensions of the ship as can be furnished, give a certificate under his hand stating what would in his opinion have been the tonnage of the ship if she had been duly measured according to British law, and the tonnage so stated in that certificate shall, for the purposes of this section, be deemed to be the tonnage of the ship.

## Court may consolidate claims.

297. Where any liability is alleged to have been incurred by the owner of a British or foreign ship in respect of loss of life, personal injury, or loss of or damage to ships or goods, and several claims are made or apprehended in respect of that liability, then the owner may apply to the Supreme Court in its Admiralty jurisdiction, and that Court may determine the amount of the owner's liability, and may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other Court in relation to the same matter, and may proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the Court thinks just.

## Part owners to account in respect of damages.

298. All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

## Insurance of certain risks valid.

299. An insurance effected against the happening, without the owner's actual fault or privity, of any or all of the events in respect of which the liability of owners is limited under this Part of this Act shall not be invalid by reason of the nature of the risk.

## Bill of lading not to contain certain clauses.

300. (1.) Where any bill of lading or shipping document contains—

- (a.) Any clause, covenant, or agreement whereby the manager, agent, master, or owner of any ship, or the ship itself, shall be relieved from liability for loss or damage arising from the harmful or improper condition of the ship's hold, negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge; or
- (b.) Any covenant or agreement whereby the obligations of the owners of the ship to exercise due diligence to properly equip, man, provision, and outfit the ship, to make the hold of the ship fit and safe for the reception of cargo, and to make her seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo, and to care for and properly deliver the same, are in any wise lessened or avoided—

such clause, covenant, or agreement shall be null and void and of no effect, unless the Court before which any question relating thereto is tried adjudges the same to be just and reasonable.

(2.) This section shall not apply to the transportation of live animals.

## Gold, silver, or diamonds, &amp;c.

301. (1.) When any person takes or puts, or causes to be taken or put, on board any ship any gold, silver, diamonds, watches, jewels, precious stones, or passengers' luggage, he shall furnish to the owner or agent of the ship a list of such articles, with their value, and in the event of their being lost or destroyed the owner of the ship shall not be liable to pay a greater amount than such declared value.

(2.) If the value of the articles is not declared at or before the time of shipment, the owner of the ship shall not, in the event of their loss or destruction, be liable to pay more than fifty pounds.

(3.) The owner of the ship may charge a special rate of freight for the carriage of such articles, whether they are put or taken on board as cargo or passengers' luggage.

## Short-delivery and pillage.

302. (1.) The agents in New Zealand of any ship not registered in New Zealand shall be deemed to be the legal representatives of the

master and owner of the ship after the departure of the ship from the port at which she was discharged for the purpose of receiving and paying claims for short-delivery or pillage of cargo, and the amount of any such claim may be recovered from such agents in any Court of competent jurisdiction :

Provided that it shall be lawful for such agents, by notice in writing delivered to the Collector not later than twenty-four hours before the departure of any ship, to decline to accept any responsibility under this section in respect of that ship, in which case the master and some other person approved by the Collector shall, before the ship is allowed her clearance, enter into a joint and several bond in a sum not exceeding the value of her cargo, as shown by the ship's papers, for the payment of any sum which, together with costs, may be recovered against the agents of such ship.

(2.) No proceedings for the recovery of any claim under this section shall be taken unless notice of the claim is given to the agents not later than fourteen days after the delivery of the cargo in respect of which the claim is made.

Bill of lading to be binding on master and owner.

303. Every bill of lading issued by the manager, agent, master, or owner of a ship, and signed by any person purporting to be authorised to sign the same, shall be binding on the master and owner of the ship as if the bill of lading had been signed by the master.

Liability in certain cases not affected.

304. Nothing in this Part of this Act shall be construed to lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman, or, except the last preceding section, to extend to any British ship which is not recognised as a British ship within the meaning of this Act.

\* \* \* \* \*

## PART XIII.

### LEGAL PROCEEDINGS.

#### *Prosecution of Offences.*

##### Punishment of crimes.

327. Subject to any special provisions of this Act,—

- (a.) Wherever in this Act it is declared that any person is guilty of a crime that person shall be punishable by fine or by imprisonment not exceeding two years with or without hard labour, but may, instead of being prosecuted as for a crime, be prosecuted summarily in manner provided by

“ The Justices of the Peace Act, 1908,” and if so prosecuted shall be punishable only with imprisonment for a term not exceeding twelve months with or without hard labour, or with a fine not exceeding one hundred pounds.

- (b.) An offence under this Act made punishable with imprisonment for any term not exceeding twelve months with or without hard labour, or by a fine not exceeding one hundred pounds, shall be prosecuted summarily in manner provided by “ The Justices of the Peace Act, 1908.”

Offences under by-laws.

328. Any offence committed or fine recoverable under any rule, regulation, or by-law made under this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

Justices of the Peace Act applied.

329. “ The Justices of the Peace Act, 1908.” shall, so far as applicable, apply to any proceeding under this Act before a Court of summary jurisdiction, whether connected with an offence punishable on summary conviction or not.

Right of appeal.

330. When any person is convicted summarily of an offence under this Act, and the fine inflicted or the sum ordered to be paid exceeds five pounds in amount, or the period of imprisonment exceeds one month, he may appeal against the conviction in manner provided by “ The Justices of the Peace Act, 1908.”

Limitation of proceedings.

331. (1.) Subject to any special provisions of this Act, neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in New Zealand, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises, as the case may be; or, if both or either of the parties to the proceeding is during that time out of New Zealand, unless the same is commenced in the case of a summary conviction within two months, and in the case of a summary order within six months, after they both first arrive or are at one time within New Zealand.

(2.) No law for the time being in force under any Act, or otherwise, which limits the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Fine where not elsewhere provided.

332. Every person who commits any offence under this Act for which no specific fine is elsewhere provided is liable to a fine not exceeding fifty pounds.

*Jurisdiction.*

Offences, where deemed to be committed.

333. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

*Jurisdiction over ships lying off coast.*

334. Where any district within which any Court, Magistrate, or Justice has jurisdiction, either under this Act or under any other Act or at common law for any purpose, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such Court, Magistrate, or Justice shall have jurisdiction over any ship being on or lying or passing off that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that ship or for the time being belonging thereto, in the same manner as if the ship or persons were within the limits of the original jurisdiction of the Court, Magistrate, or Justice.

*Jurisdiction over offender found in New Zealand.*

335. Where any person, being a British subject, is charged with having committed any offence on board any British ship on the high seas, or in any foreign port or harbour, or on board any foreign ship to which he does not belong, or, not being a British subject, is charged with having committed any offence on board any British ship on the high seas, and that person is found within the jurisdiction of any Court in New Zealand which would have had cognisance of the offence if it had been committed on board a British ship within the limits of its ordinary jurisdiction, that Court shall have jurisdiction to try the offence as if it had been so committed.

*Detention of Ship and Distress on Ship.*

*Enforcing detention of ship.*

336. (1.) Where under this Act a ship is to be or may be detained, any officer of Customs, or any person appointed by the Minister for the purpose, may detain the ship, and if after detention or after service on the master of any notice of or order for detention the ship proceeds to sea before it is released by competent authority, the master, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable for each offence to a fine not exceeding one hundred pounds.

(2.) Where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer authorised to detain the ship, or any Surveyor or officer of Customs or person as aforesaid, the owner and master of the ship shall be liable to pay all expenses of and incidental to such Surveyor, officer, or person being

so taken to sea, and also to a fine not exceeding one hundred pounds, or, if the offence is not prosecuted in a summary manner, not exceeding ten pounds for every day until the Surveyor, officer, or person returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and the expenses ordered to be paid may be recovered in like manner as the fine.

(3.) Where under this Act a ship is to be detained an officer of Customs shall, and where under this Act a ship may be detained he may, refuse to clear that ship outwards or to grant a transire to that ship.

*Recovery of fines, &c., by distress.*

337. Where any Court, Magistrate, or Justice has power to make an order directing payment to be made of any seaman's wages, or any fines, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in the manner prescribed in the order, the Court, Magistrate, or Justice who made the order may, in addition to any other powers they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture, and apparel.

*Evidence, and Service of Documents.*

*Proof of document without attesting witness.*

338. Where any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling any attesting witness.

*Service of document.*

339. (1.) Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a.) In any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last known place of abode ; or
- (b.) If the document is to be served on the master of a ship where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship ; or
- (c.) If the document is to be served on the master of a ship, where there is no master, and the ship is in New Zealand waters, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in New Zealand, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

(2.) Every person who obstructs the service on the master of a ship of any document under this Act relating to the detention of ships as unseaworthy is liable to a fine not exceeding ten pounds, and if the owner or master of the ship is party or privy to the obstruction he is guilty of a crime.

## Proof of exemption, &amp;c.

340. Any exception, exemption, proviso, excuse, or qualification in relation to any offence under this Act, whether it does or does not accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in any information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

*Application of Fines.*

341. The Court imposing a fine under this Act for which no specific application is herein provided may, if it thinks fit, direct the whole or any part of such fine to be applied in compensating any person for any wrong or damage sustained by him through the act or default in respect of which such fine is imposed, or to be applied in or towards payment of the expenses of the proceedings: and, subject to such directions or specific application as aforesaid, all fines recovered in New Zealand shall be paid into the Public Account and form part of the Consolidated Fund.

## PART XIV.

## FOREIGN DESERTERS.

Provisions of this Part not to be enforced except by desire of nation to which foreign ship belongs.

342. (1.) The provisions of this Part of this Act shall not be enforced in respect of the masters and seamen of any foreign ships, until it has been signified in writing to the Governor, by a Consul or some other proper officer of the Government of the nation or State to which any such ship belongs, that it is the desire of such Government that this Part of this Act shall be enforced in respect of the master and seamen of the ships of such nation or State.

After notification in *Gazette* provisions may be enforced.

(2.) Whenever a notice in the *Gazette* to the effect that the provisions of this Part of this Act will be enforced in respect of the master and seamen of the ships of any foreign nation or State, such provisions shall be enforced accordingly from and after a day to be fixed in such notice.

(3.) A printed copy of the *Gazette* containing such notice shall be deemed sufficient evidence that this Part of this Act may be enforced in respect of the master and seamen of any ship belonging to the nation or State to which the notice refers.

## Interpretation.

343. In this Part of this Act, if not inconsistent with the context,—

“ Consul ” includes the Vice-Consul and any other consular officer or agent :



- “ Foreign ship ” includes all ships not entitled to be deemed British ships under the Imperial Merchant Shipping Act :  
 “ Master ” includes any person for the time being in command or charge of any such ship :  
 “ Port ” includes any roadstead, harbour, creek, or river :  
 “ Seamen ” includes every person except the master employed or engaged to serve in any capacity on board any such ship :  
 “ Ship ” includes every description of vessel employed on the high seas.

Foreign seamen deserting, &c., may be apprehended by warrant.

344. If a seaman belonging to a foreign ship, whilst such ship is in any port in New Zealand or otherwise within the limits thereof, deserts or absents himself without leave, or wilfully neglects or refuses to join after signing an agreement to do so, or refuses to proceed to sea in such ship, any Justice, on the complaint on oath of the master of the ship, may issue his warrant for the apprehension of such seaman and thereupon deal with him as hereinafter provided, or, at the request of such master, may order such seaman to be put forcibly on board the ship to which he belongs, or may place such seaman at the disposal of the Consul of the nation or State to which the ship belongs.

Also without warrant.

345. The master of any such ship may require any constable, who is thereupon hereby authorised without first procuring a warrant, to apprehend any such seaman so deserting, absenting himself, neglecting or refusing to join, or refusing to proceed to sea as aforesaid, and such constable shall thereupon convey him before a Justice to be dealt with according to law :

Provided that if such apprehension is made on improper or insufficient grounds, the master who caused the same to be made shall be liable to a fine not exceeding fifty pounds.

#### Punishments.

346. Every seaman of any foreign ship who, whilst such ship is in any port in New Zealand or otherwise within the limits thereof, commits any of the offences hereinafter mentioned, is liable on conviction in a summary way before any Justice to imprisonment, with or without hard labour, for any period not exceeding the periods hereinafter set against the said offences respectively, that is to say :—

#### Desertion.

- (a.) For desertion or absenting himself without leave, or refusing to join after signing an agreement to do so, or refusing to proceed to sea in such ship, a period of twelve weeks for the first offence, and a period of six months for a second or subsequent desertion or absence as aforesaid :

## Assaulting officers.

- (b.) For assaulting any master or other officer of such ship, a period of six months :

## Disobedience or neglect of duty.

- (c.) For wilful disobedience to any lawful command of such master or other officer of such ship, or for a wilful neglect of his master as a seaman, or for attempting to leave any such ship without the consent of the officer in charge thereof, a period of four weeks :

## Continued disobedience or neglect of duty.

- (d.) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of such duty, a period of twelve weeks :

## Combining to disobey or neglect duty, &amp;c.

- (e.) For combining with any other of the crew to desert, or to disobey the lawful commands of his officers, or to neglect his duty as seaman, or impede the discharge, loading, or departure of the ship or the progress of the voyage, a period of twelve weeks :

Provided that nothing herein shall take away or abridge any powers which a master of any such ship may have over his crew.

## Power to order convicted seamen to be put on board.

347. Any Justice, at the instance of the master of any such ship, may order any such seaman, at or after the expiration or earlier determination of his sentence of imprisonment or at any time during the continuance thereof, to be put forcibly or otherwise on board the ship to which he belongs, and in all such cases any Justice may grant an order to any Gaoler or keeper of any prison to discharge such seaman from prison into such custody as such Justice directs, which shall be a sufficient warrant to such Gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

## Ships or places may be searched.

348. Any Justice, on the complaint on oath of the master of any such ship that he has good cause to suspect that any runaway seaman of such ship is harboured, secreted, or concealed on board any ship or boat or in any house or place whatsoever, may issue a warrant to search such ship or boat or such house or place, and to apprehend such seaman and lodge him in some place for safe custody, and such warrant shall be executed accordingly, and every such seaman shall be brought with all convenient speed before some Justice to be dealt with according to law.

## Harbouring deserters, &amp;c.

349. Every person who knowingly and wilfully harbours, conceals, employs, or retains, or assists in harbouring, concealing, employing, or retaining, any seaman belonging to any such ship as aforesaid who has deserted or absented himself, or refused or neglected to join, or refused to proceed to sea as aforesaid, or causes, induces, or persuades any such seaman, by words or by any other means whatsoever, to violate or attempt to violate any agreement he may have entered into to serve on board any such ship as aforesaid, or knowingly connives at any such seaman's desertion or absence, or refusal or neglect to join, or refusal to proceed to sea, is liable for every such offence to a fine not exceeding twenty pounds for the first offence, and not less than ten or more than fifty pounds for a second or subsequent offence.

Officer having charge of police may put constables on board ships.

350. The officer having charge of the police at any port, on the application of the master of any such ship, may place constables on board such ship to prevent desertion therefrom and to prohibit the approach of boats without the authority of such constables or of the officer in charge of such ship.

Approaching ship in boat after being duly warned.

351. The occupier of any boat approaching any such ship without such authority as aforesaid after being duly warned shall be liable to a fine not exceeding ten pounds for every such offence, and any seaman who attempts to leave any such ship without the consent of the officer in charge thereof may be apprehended by any constable, without warrant first obtained, and kept in safe custody, to be taken as soon as conveniently may be before some Justice to be dealt with according to law :

Provided that if any seaman makes any complaint to any constable placed as aforesaid on board any ship, a statement of such complaint shall be made by such constable as soon as conveniently may be to the officer having charge of the police, who shall forthwith inquire into the ground of such complaint.

Attesting witness of ship's articles need not be called.

352. In prosecuting under this Part of this Act it shall not be necessary, for the purpose of proving the articles or agreements under which any such seaman has engaged to serve on board any such ship, to call any subscribing or attesting witness thereto, but such articles or agreement may be proved as if there was no such subscribing or attesting witness.

Fines how recoverable, and service of summons how to be made.

353. All fines imposed by this Part of this Act may be recovered before any one or more Justices in a summary way, and the service of any summons or other document in any proceeding under this part

of this Act shall be good service if made as required by law or if made by leaving a copy of such summons or other document for the person to be served on board any ship to which he belongs with the person being or appearing to be at the time in command or charge of such ship, and explaining to such person the purport thereof.

Expenses to be paid by master.

354. All expenses incidental to the prevention of desertion, or to the apprehension, confinement, or removal of any seaman under the powers and authority conferred by this Part of this Act shall be paid to the officer having charge of the police by the Consul, master, mate, or other person at whose instance the same were incurred.

## SCHEDULES.

### FIRST SCHEDULE.

#### EXACTMENTS CONSOLIDATED.

- 1860, No. 4.—“ The Foreign Seamen’s Act, 1860.”  
 1867, No. 10.—“ The Old Metal and Marine Store Dealers Act, 1867 ” : Section 12.  
 1901, No. 74.—“ The New Zealand Ensign Act, 1901.”  
 1903, No. 96.—“ The Shipping and Seamen Act, 1903 ” : Except section 345.  
 1905, No. 63.—“ The Shipping and Seamen Act Amendment Act, 1905.”

### SECOND SCHEDULE.

Indicated Horse-power.	Number and Grade of Engineers.
Not more than 150 .. ..	One, holding a certificate of competency or service of the second class or higher.
More than 150 and not more than 300— (a.) If running less than 300 miles between terminal ports	One, holding a certificate of competency or service of the second class or higher.
(b.) In all other cases .. ..	Two, to wit,— A chief engineer, holding a certificate of competency or service of the second class or higher; and A second engineer, holding a certificate of competency of the third class, or service of the second class, or higher.
More than 300 and not more than 1,250— (a.) If running less than 300 miles between terminal ports	Two, to wit,— A chief engineer, holding a certificate of competency or service of the first class; and A second engineer, holding a certificate of competency or service of the second class, or higher.

SECOND SCHEDULE—*continued*.

Indicated Horse-power.	Number and Grade of Engineers.
(b.) In all other cases .. .. .	Three, to wit.— A chief engineer, holding a certificate of competency or service of the first class; A second engineer, holding a certificate of competency or service of the second class or higher; and A third engineer, holding a certificate of competency of the third class, or service of the second class, or higher.
For every additional 1,250 or part of 1,250 if engaged in the foreign or intercolonial trade, and for every 1,250 or part of 1,250 over and above 2,500 if engaged in the sea-going home trade only.	One additional engineer.

Indicated horse-power shall be assessed on the average horse-power indicated during the previous six months, as shown by the engineer's log-book.

For the purposes of this Schedule, the expression "terminal ports" means the port from which the steamship first takes her departure and the last port at which she calls before commencing her return voyage.

## THIRD SCHEDULE.

## MAXIMUM FEES TO BE CHARGED ON EXAMINATION.

*Masters and Mates.*

	£	s.	d.
For Foreign-going Ships—			
Master, whether extra or ordinary .. .. .	2	0	0
Master, if previously in possession of a certificate (for fore-and-aft rigged vessels) .. .. .	1	0	0
First and only Mate, if previously possessing an inferior certificate ..	0	10	0
If not .. .. .	1	0	0
Second Mate .. .. .	1	0	0
For Home-trade Ships—			
Master .. .. .	1	0	0
Mate .. .. .	0	10	0
For Steamships plying within Restricted Limits—			
Master .. .. .	1	0	0
Master of fishing-boat or cargo-vessel under 25 tons register ..	0	10	0

*Engineers.*

First-class Engineer's certificate (whether extra or ordinary) ..	2	0	0
If already in possession of a second-class certificate ..	1	0	0
Second-class Engineer's certificate .. .. .	1	0	0
Third-class Engineer's certificate .. .. .	1	0	0
River Engineer's certificate .. .. .	1	0	0
Marine-engine Driver's certificate .. .. .	1	0	0
First-class Engineer of ship propelled by mechanical power other than steam .. .. .	1	0	0
Second-class Engineer of the like description of ship ..	0	10	0
Restricted-limits Engineer of the like description of ship ..	0	10	0

## FOURTH SCHEDULE.

## SEAMEN TO BE CARRIED IN SAILING-SHIPS.

Under	30 tons register	..	..	..	Not less than 1 certificated able seaman.		
Of	30	..	and under 60 tons register		Not less than 2 certificated able seamen.		
..	60	..	..	100	..	Not less than 2 certificated able seamen and 1 ordinary seaman, apprentice, or boy.	
..	100	..	..	200	..	Not less than 4 certificated able seamen.	
..	200	..	..	300	..	Not less than 5 ) certificated able seamen and 1 ) ordinary seaman.	
..	300	..	..	400	..		6
..	400	..	..	600	..		7
..	600	..	..	800	..		8
..	800	..	..	1,000	..	9	) certificated able seamen and 2 ) ordinary seamen.
..	1,000	..	..	1,500	..	10	

Two able seamen extra for every 500 tons or fraction of 500 tons that the vessel is above 1,500 tons.

APPRENTICES OR BOYS TO BE CARRIED IN SAILING-SHIPS ENGAGED IN THE HOME OR INTERCOLONIAL TRADE, AND CARRYING AT LEAST FOUR CERTIFICATED ABLE SEAMEN.

100 tons and under	500 tons register	..	Not less than 1
500	.. 1,000	..	2
1,000	.. and upwards	..	3

apprentices or boys.

## SEAMEN TO BE CARRIED IN SEA-GOING STEAMSHIPS.

Under	30 tons register	..	..	..	Not less than 1	certificated able seaman and 1 ordinary seaman, apprentice, or boy.
Of	30	„	and under 100 tons register	Not less than 2	certificated able seamen and 1 ordinary seaman, apprentice, or boy.	
..	100	„	.. 200	..	..	} certificated able seamen and 1 ordinary seaman, apprentice, or boy.
..	200	„	.. 400	..	..	
..	400	„	.. 600	..	..	
..	600	„	.. 1,000	..	..	
..	1,000	„	.. 1,500	..	..	
..	1,500	„	.. 2,000	..	..	

One able seaman extra for every additional 500 tons or fraction of 500 tons above 2,000 tons.

## FIREMEN, TRIMMERS, AND GREASERS.

Of	50-horse power, and under	100-horse power, 1 fireman.							
..	100	..	250	..	2	firemen.			
..	250	..	750	..	3				[greasers.
..	750	..	1,250	..	3	..	2 trimmers, and 3		
..	1,250	..	2,000	..	6	..	3	..	3
..	2,000	..	3,000	..	9	..	3	..	3
..	3,000	..	4,000	..	9	..	6	..	3

[greasers.

2 trimmers, and 3

.. 3

.. 3

.. 3

“Horse-power” to be the power assessed on the average horse-power indicated during the previous six months as shown by the engineer’s log-book, and to be marked in the ship’s certificate.

In the case of steamships over 200 tons register not authorised to carry passengers the number of able seamen required to be carried may be one less than specified in this Schedule.

#### FIFTH SCHEDULE.

##### REGULATIONS TO BE OBSERVED WITH RESPECT TO ANTI-SCORBUTICS.

###### *Furnishing of Anti-scorbutics.*

(1.) The anti-scorbutics to be furnished shall be lime- or lemon-juice, or such other anti-scorbutics (if any) of such quality, and composed of such materials, and packed and kept in such manner as the Governor by Order in Council directs.

(2.) No lime- or lemon-juice shall be deemed fit and proper to be taken on board ship for the use of the crew or passengers thereof unless it has been obtained from a bonded warehouse for and to be shipped as stores.

(3.) Lime- or lemon-juice shall not be so obtained or delivered from a warehouse as aforesaid unless—

(a.) It is shown, by a certificate under the hand of a Marine Inspector, to be proper for use on board ship, the certificate to be given upon inspection of a sample, after deposit of the lime- or lemon-juice in the warehouse ; and

(b.) It contains fifteen per cent. of proper and palatable proof spirit, to be approved by the Inspector or by the proper officer of Customs, and to be added before or immediately after the inspection thereof ; and

(c.) It is packed in such bottles at such time and in such manner and is labelled in such manner as the Minister of Customs directs.

(4.) If the lime- or lemon-juice is deposited in a bonded warehouse, and has been approved as aforesaid by the Inspector, the spirit, or the amount of spirit necessary to make up fifteen per cent., may be added in the warehouse, without payment of any duty thereon ; and when any spirit has been added to any lime- or lemon-juice, and the lime- or lemon-juice has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship’s stores only, upon such terms and subject to such regulations of the Minister of Customs as are applicable to the delivery of ship’s stores from the warehouse.

(5.) The lime- or lemon-juice with which a ship is required by this Act to be provided shall be taken from the warehouse duly labelled as aforesaid, and the labels shall remain intact until twenty-four hours at least after the ship has left her port of departure on her foreign voyage.

###### *Serving out of Anti-scorbutics.*

(6.) The lime- or lemon-juice shall be served out with sugar (the sugar to be in addition to any sugar required by the agreement with the crew).

(7.) The anti-scorbutics shall be served out to the crew so soon as they have been at sea for ten days ; and during the remainder of the voyage, except during such time as they are in harbour and are there supplied with fresh provisions.

(8.) The lime- or lemon-juice and sugar shall be served out daily at the rate of an ounce each per day to each member of the crew, and shall be mixed with a due proportion of water before being served out.

(9.) Any other anti-scorbutics provided in pursuance of an Order in Council shall be served out at such times and in such quantities as the Order in Council directs.

#### SIXTH SCHEDULE.

##### REGULATIONS TO BE OBSERVED WITH RESPECT TO ACCOMMODATION ON BOARD SHIPS.

(1.) Every place in a ship occupied by seamen or apprentices, and appropriated to their use, shall be such as to make the space required by Part II of this Act

available for the proper accommodation of the men who are to occupy it, and shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvia caused by cargo or bilge-water.

(2.) A place so occupied and appropriated as aforesaid shall not authorise a deduction from registered tonnage under the tonnage regulations of this Act unless there are in the ship properly constructed privies for the use of the crew, of such number and of such construction as may be approved by the Surveyor of Ships.

(3.) Every place so occupied and appropriated as aforesaid shall, whenever the ship is registered or re-registered, be inspected by one of the Surveyors of Ships, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the Collector of Customs a certificate to that effect, and if the certificate is obtained, but not otherwise, the space shall be deducted from the registered tonnage.

(4.) No deduction from tonnage as aforesaid shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every place so occupied and appropriated, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen."

(5.) Upon any complaint concerning any place so occupied and appropriated as aforesaid a Surveyor of Ships may inspect the place, and if he finds that any of the provisions of this Act with respect to the same are not complied with he shall report the same to the chief officer of Customs at the port where the ship is registered, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it is certified by the Surveyor, or by some other Surveyor of Ships, that the provisions of this Act in respect of the place are fully complied with.

\* \* \* \* \*

— — —

## SEVENTH SCHEDULE.

### 1. MAXIMUM FEES TO BE CHARGED FOR MATTERS TRANSACTED AT MERCANTILE MARINE OFFICES.

1. <i>Engagement of Crews.</i>				3. <i>Discharge of Crews.</i>			
	£	s.	d.		£	s.	d.
In ships under 60 tons ..	0	4	0	In ships under 60 tons ..	0	4	0
In ships of 60 to 100 tons ..	0	7	0	In ships of 60 to 100 tons ..	0	7	0
100 to 200 ..	0	15	0	100 to 200 ..	0	15	0
200 to 300 ..	1	0	0	200 to 300 ..	1	0	0
300 to 400 ..	1	5	0	300 to 400 ..	1	5	0
400 to 500 ..	1	10	0	400 to 500 ..	1	10	0
500 to 600 ..	1	15	0	500 to 600 ..	1	15	0
600 to 700 ..	2	0	0	600 to 700 ..	2	0	0
700 to 800 ..	2	5	0	700 to 800 ..	2	5	0
800 to 900 ..	2	10	0	800 to 900 ..	2	10	0
900 to 1,000 ..	2	15	0	900 to 1,000 ..	2	15	0
Above 1,000 ..	3	0	0	Above 1,000 ..	3	0	0
And so on for ships of larger tonnage, adding for every 100 tons above 1,000 five shillings.				And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.			

2. *Engagement of Seamen separately.*  
Two shillings for each.

4. *Discharge of Seamen separately.*  
Two shillings for each.



## II. MAXIMUM SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge :	2. In respect of engagements and discharges of seamen separately, upon each engagement and each discharge :
From wages of any mate, purser, s. d. engineer, surgeon, carpenter, or steward .. .. . 1 6	One shilling.
From wages of all others except apprentices .. .. . 1 0	

\* \* \* \* \*

## TENTH SCHEDULE.

### SIGNALS OF DISTRESS.

*In the Daytime.*—The following signals, numbered 1, 2, 3, and 4, when used or displayed together or separately, shall be deemed to be signals of distress in the daytime :—

1. A gun or other explosive signal fired at intervals of about a minute.
2. The International Code signal of distress indicated by N C.
3. The distant signal, consisting of a square flag having either above or below it a ball, or anything resembling a ball.

4. A continuous sounding with any fog-signalling apparatus.

*At Night.*—The following signals, numbered 1, 2, 3, and 4, when used or displayed together or separately, shall be deemed to be signals of distress at night :—

1. A gun or other explosive signal fired at intervals of about a minute.
2. Flames on the ship (as from a burning tar-barrel, oil-barrel, &c.).
3. Rockets or shells throwing stars, of any colour or description, fired one at a time, at short intervals.
4. A continuous sounding with any fog-signalling apparatus.

\* \* \* \* \*

## FOURTEENTH SCHEDULE.

### MAXIMUM LIGHT DUES.

For every steamship, and for every ship employed in the home trade, on entering inwards or clearing at the Customs, not exceeding fourpence per ton per voyage.

For every intercolonial-trading sailing-ship entering inwards or clearing at the Customs, not exceeding sixpence per ton per voyage.

For every other ship entering inwards or clearing at the Customs, not exceeding ninepence per ton per voyage.

\* \* \* \* \*

## THE SHOPS AND OFFICES ACT, 1908.

1908, No. 179.

AN ACT to consolidate certain Enactments of the General Assembly relating to Shops and Offices.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is “ The Shops and Offices Act, 1908.”

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All districts, appointments, Orders in Council, regulations, polls, certificates, notices, requisitions, documents, books, records, statutory closing-days, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Interpretation.

2. In this Act, if not inconsistent with the context,—

“ Borough ” includes city :

“ Inspector ” means an Inspector of Factories appointed under “ The Factories Act, 1908 ” :

“ Minister ” means the Minister of Labour :

“ Occupier ” means the person occupying any building, enclosure, or place used or intended to be used as a shop or office, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a shop or office : and

In shops or offices occupied by a body of persons, corporate or unincorporate, the working manager shall also be deemed to be included in the term “ occupier ” :

“Office” means any building in which any person is employed, directly or indirectly, to do any clerical work in connection with any mercantile or commercial business or calling carried on therein by the occupier thereof; but does not include any solicitor’s office or any mining company’s office, miners’ union office, or any building or room in which the clerical work of a factory or shop is carried on if situate within the factory or shop :

“Office-assistant” means any person employed in any office as defined by this Act :

“Prescribed” means prescribed by this Act or by regulations made under this Act :

“Privy” includes water-closet, earth-closet, and urinal :

“Shop” means any building or place in which goods are kept or exposed or offered for sale, or in which any part of the business of the shop is conducted; but does not include a warehouse doing exclusively a wholesale business :

“Shop-assistant” means any person (whether a member of the occupier’s family or not) who is employed by the occupier of a shop in or about the business of the shop, and includes—

(a.) Apprentices and improvers ; and also

(b.) All persons in the occupier’s employment who are engaged in selling or delivering his goods or canvassing for orders for his goods, whether such persons are at any time actually employed inside the shop or not :

“Working-day” means any day in the week except Sunday.

## SHOPS.

### *Hours of Employment, &c.*

#### Limit of employment of shop-assistants.

3. (1.) Subject to the provisions of this Act and to any award of the Arbitration Court, a shop-assistant shall not be employed—

(a.) In or about any shop in which any one or more of the trades or businesses mentioned in the Second Schedule hereto are exclusively carried on, after the hour set opposite to such trade or business in the said Schedule :

Provided that no female assistant shall be employed in or about any such shop (other than a refreshment-room) after nine o’clock in the evening, except on Christmas Eve and New Year’s Eve : or

(b.) In or about any other shop if situate within a combined district or a borough not forming part of a combined district and having a population of five thousand or upwards, after one o’clock in the afternoon of the statutory closing-

day, or nine o'clock in the evening on one working-day in each week, or six o'clock in the evening on any other working-day : or

(c.) In or about any other shop if situate within a borough not included in paragraph (b) hereof, after one o'clock in the afternoon of the statutory closing-day, or nine o'clock in the evening of one working-day in each week, or seven o'clock in the evening on any other working-day : or

(d.) In or about any shop not included in any of the foregoing paragraphs, after one o'clock in the afternoon of the statutory closing-day, or such hours on other working-days as may be fixed by the occupiers for the closing of such shops.

(2.) The wife of the occupier of any shop and the members of his family shall not be deemed to be shop-assistants within the meaning of this section :

Provided that the provisions of this Act relating to the weekly half-holiday and to the number of hours that shop-assistants may be employed in any week shall apply to the members of the occupier's family.

(3.) If any shop-assistant is employed at any work in connection with the business of any shop later than half an hour after the time prescribed by this section, the employer commits an offence in respect of each shop-assistant so employed.

(4.) Notwithstanding anything in this Act, it shall not be unlawful for any chemist's assistant who resides on the premises of the shop to supply at any time medicine or surgical appliances that are urgently required.

(5.) The definitions contained in paragraph (a) of section eighteen hereof shall extend and apply to this section, and in addition thereto it is hereby declared that for the purposes of this section and the Second Schedule hereto a "dairy-produce seller" means a person who sells milk, cream, eggs, or butter.

#### Hour of commencement of employment.

4. No shop-assistant shall be employed in or about the business of any shop before the hour of four o'clock in the morning in the case of bakers, butchers, or milkmen, or seven o'clock in the morning in any other case.

#### Late closing on Christmas Eve and New Year's Eve.

5. Nothing in this Act shall render it unlawful for the occupier of any shop to employ his assistants till eleven o'clock at night on Christmas Eve and New Year's Eve ; or when Christmas Day and New Year's Day fall on Monday, then till eleven o'clock at night on the Saturday preceding those days.

## Hours of employment.

6. (1.) A shop-assistant shall not be employed in or about the shop or its business—

- (a.) For more than fifty-two hours, excluding meal-times, in any one week ; nor
- (b.) For more than nine hours, excluding meal-times, in any one day, except on one day in each week, when the employment may be for eleven hours, excluding meal-times ; nor
- (c.) For more than five hours continuously without an interval of at least one hour for a meal ; nor
- (d.) At any time after one o'clock in the afternoon of one working-day in each week, which day shall (subject to the provisions of section eighteen hereof) be the day on which the shop is required to close as hereinafter provided.

(2.) The provisions of the last preceding subsection relating to the hours of employment of shop-assistants (other than those relating to the statutory half-holiday) shall not apply to any shop-assistant while engaged in delivering goods at the residence of any person situate four miles or upwards from the shop, and not being within three miles of any borough or town district or within any area in which an award of the Court of Arbitration is in force relating to the trade of the occupier, or while engaged in receiving produce or other commodity from any such person :

Provided that the hours of employment under this subsection shall not under ordinary circumstances exceed the hours limited by paragraph (a) of the last preceding subsection by more than three hours in any one week.

(3.) For the purposes of stock-taking, or other special work, such working-hours may, with the previous written consent of the Inspector, be extended, but not for more than three hours in any one day on not more than thirty days in any one year :

Provided that on every such occasion the shop-assistant shall not be employed for more than four hours continuously without having an interval of at least half an hour for rest and refreshment :

Provided also that every shop-assistant employed during such extended hours shall be paid therefor at half as much again as the ordinary rate, but the overtime rate shall not be less than sixpence per hour for those assistants whose ordinary wages do not exceed ten shillings a week, nor less than ninepence per hour for all other assistants so employed, and shall be paid at the first regular pay-day thereafter :

Provided further that no payment for such extended hours as aforesaid shall be made to any shop-assistant whose wages are or exceed two hundred pounds per annum.

(4.) This section shall operate subject to the provisions of this Act, and to any award of the Court of Arbitration.

## Special provisions as to hours of employment.

7. In order to prevent any evasion or avoidance of the limitation imposed on the employment of shop-assistants by the last preceding section, the following provisions shall apply in the case of every shop-assistant :—

- (a.) The shop-assistant shall not be employed in or about the shop or its business during meal-times, or during the intervals for rest and refreshment.
- (b.) The shop-assistant shall be deemed to be employed in the shop if he in fact does any work in or about the shop, whether the occupier has assented thereto or not.
- (c.) All work done for the occupier of the shop by the shop-assistant elsewhere than in the shop (whether the work is or is not in connection with the business of the shop) shall be deemed to be done whilst the shop-assistant is employed in the shop, and the time shall be counted accordingly.

## Sitting-accommodation for women.

8. With respect to female shop-assistants the following provisions shall apply :—

- (a.) Reasonable and proper sitting-accommodation to the satisfaction of the Inspector shall at all times be provided for them in the shop ; and
- (b.) They shall be allowed to avail themselves of such accommodation at reasonable intervals throughout the day ;
- (c.) They shall not be dismissed, nor shall their wages be reduced, by reason merely that they have availed themselves of the sitting-accommodation, unless the occupier proves that they have done so to an unreasonable extent.

*Payment of Wages.*

Wages must be paid.

9. In order to prevent shop-assistants being employed in shops without reasonable remuneration in money the following provisions shall apply :—

- (a.) Every person who is employed in any capacity in a shop shall be entitled to receive from the occupier payment for the work as is agreed upon, being in no case less than five shillings per week for the first year, eight shillings per week for the second year, and eleven shillings per week for the third year, and so on, with an annual increase of not less than three shillings per week during every succeeding year of employment in the same trade until twenty years of age.

- (b.) Such rate of payment shall in every case be irrespective of overtime.
- (c.) Payment shall be made in full at weekly or other intervals as agreed on, being in no case longer than fortnightly intervals.
- (d.) If the occupier makes default for fourteen days in the full payment of any money payable by him as aforesaid, he shall be liable to a fine not exceeding five shillings for every day thereafter during which such default continues.
- (e.) Without affecting the other civil remedies for the recovery of money available under this section to a shop-assistant, civil proceedings for the recovery thereof may be taken by the Inspector, in the name and on behalf of the person entitled to payment, in any case where the Inspector is satisfied that default in payment has been made.
- (f.) No premium in respect of the employment of any shop-assistant shall be paid to or be received by the occupier, whether such premium is paid by the shop-assistant employed or by some other person; and if the occupier commits any breach of the provisions of this paragraph he shall be liable to a fine not exceeding ten pounds.
- (g.) In any case where a premium has been paid or received in breach of the last preceding paragraph, or where the occupier has made any deduction from wages, or received from the shop-assistant, or from any person on behalf of the shop-assistant, any sum in respect of such premium or employment, then, irrespective of any fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the occupier in civil proceedings instituted by the Inspector in the name and on behalf of the shop-assistant concerned.

*Weekly Half-holiday.*

“Separate district.”

10. (1.) Every borough or town district not comprised in a combined district, and every road district, every county in which there are no road districts, and so much of every county as is not included in any road district or town district, shall for the purposes of this Act be deemed to be a “separate district.”

“Combined district.”

(2.) All boroughs and town districts, any one of which is within a mile of any other, shall be deemed to constitute a “combined district”:

Provided that the Boroughs of Sumner and New Brighton shall not form part of the combined district of Christchurch, but shall each be deemed to be a separate district.

Neighbouring district may become part of combined district.

(3.) On the application of the local authority of any district that is within one mile of any part of a combined district, the Governor may, by Order in Council gazetted, declare that such district shall as from a date to be named in the Order form part of such combined district, and such Order shall have effect according to the tenor thereof.

(4.) Notice of such application shall be given by advertisement in some newspaper circulating in the district.

(5.) If within one month after such advertisement a petition is presented to the Governor by any constituent local authority within the combined district, praying that such Order in Council be not made, then the application shall be refused.

(6.) The Minister shall, by notice in the *Gazette*, specify each combined district and the respective boroughs and town districts comprised therein, and such *Gazette* notice shall be conclusive evidence of the matters stated therein.

Shops to close on statutory closing-day.

11. (1.) Except as hereinafter specially provided, all shops, whether in a separate or combined district, shall be closed on one working-day of each week at the hour of one o'clock in the afternoon for the remainder of the day.

(2.) Such day (hereinafter referred to as "the statutory closing-day") shall in every case be one and the same working-day in the same separate or combined district :

Provided that in the event of any day other than Saturday being appointed as the statutory closing-day, then any occupier shall be entitled to close his shop on Saturday in lieu thereof on giving to the Inspector during the month of January in each year, or within one month after a shop is first opened for business, as the case may be, notice in writing of his desire so to do.

Appointment of statutory closing-day in separate districts.

12. The statutory closing-day in each separate district shall be appointed in manner following :—

- (a.) A special meeting of the local authority of the separate district shall be held in the month of January in each year, of which notice by advertisement shall be given at least seven days before the day of meeting.
- (b.) At such meeting the local authority shall by resolution decide what working-day in the week shall be the statutory closing-day.
- (c.) The Mayor or Chairman shall forthwith notify to the Minister the day so decided on, and the Minister shall thereupon, by notice in the *Gazette* in the month of February following, appoint that day to be the statutory closing-day in the separate district.



In combined districts.

13. The statutory closing-day in each combined district shall be appointed in manner following :—

- (a.) A conference of delegates from the local authorities of all the boroughs and town districts comprised in the combined district (hereinafter referred to as “ constituent local authorities ”) shall be held in the month of January in each year.
- (b.) At such conference the constituent local authorities shall by resolution decide what working-day shall be the statutory closing-day.
- (c.) The chairman of the conference shall forthwith notify to the Minister the day so decided on, and the Minister shall thereupon, by notice in the *Gazette* in the month of February following, appoint that day to be the statutory closing-day in the combined district.

Proceedings of conference.

14. With respect to such conference the following provisions shall apply :—

- (a.) Each of the constituent local authorities (other than a City Council) shall appoint one of its members to be a delegate.
- (b.) If a City Council is one of the constituent local authorities, it shall out of its members appoint delegates exceeding by one the total number of delegates which all the other constituent local authorities are entitled to appoint.
- (c.) Of the delegates appointed by the City Council its Mayor shall in every case be one.
- (d.) In the month of December of each year the City Council or other the constituent local authority of the borough or town district having the largest population (hereinafter referred to as “ the convening local authority ”) shall fix a convenient time in the month of January for the meeting of the conference, and shall notify the same to all the other constituent local authorities and request them to appoint their delegates.
- (e.) The meeting of the conference shall be held at the time so fixed, and at the office of the convening local authority.
- (f.) At all meetings of the conference the quorum shall be a bare majority of the total number of delegates which all the constituent local authorities are entitled to appoint.
- (g.) At the first meeting of the conference the members shall appoint one of their number to be chairman, and if they fail to do so, then the Mayor or Chairman of the convening local authority shall be chairman of the conference.

- (h.) The proceedings of the conference shall not be affected by the fact that the full number of delegates has not been appointed.
- (i.) Subject to the foregoing provisions of this section, the rules for the conduct of business at meetings of the convening local authority shall apply to the conduct of business at meetings of the conference.

When Minister may appoint statutory closing-day.

15. In every case where for any reason the statutory closing-day in a separate or combined district is not duly decided on as aforesaid, or where for any reason the Minister has not, on or before the tenth day of February in any year, been duly notified as aforesaid of the day decided on, he shall himself, by notice in the *Gazette* appearing in that month, appoint as the statutory closing-day in that district such working-day as he thinks fit.

Notice of statutory closing-day to be gazetted.

16. (1.) The statutory closing-day appointed by the Minister shall, in the case of each separate or combined district, be the statutory closing-day in such district on and from the first day of March next following the appearance of the *Gazette* notice appointing the same, and shall so continue until altered by a like notice under this Act.

(2.) Such *Gazette* notice shall in the case of a combined district specify each borough and town district comprised therein.

(3.) Such *Gazette* notice shall in every case, according to its tenor, be conclusive evidence of the matters stated therein, and of the statutory closing-day appointed in the separate or combined district specified therein.

Poll of electors to determine statutory closing-day.

17. (1.) If at any time, in the case of any separate district which is a borough or town district, or in the case of any combined district, a requisition that the statutory closing-day in that district shall be determined by a poll of the electors is presented in accordance with this section, then, notwithstanding anything to the contrary in this Act, the statutory closing-day in that district shall be determined accordingly in manner hereinafter in this section provided.

(2.) Every such requisition shall be signed by not less than one-tenth of the total number of electors of the borough or town district in the case of a separate district, or by not less than one-tenth of the total number of the electors of all the constituent boroughs and town districts in the case of a combined district.

(3.) Every such requisition shall be presented to the local authority in the case of a separate district, and to the convening local authority in the case of a combined district.

(4.) Every such requisition shall be so presented at a time which is not less than one month and not more than three months before the day fixed for a general election of the members of the local authority to which such requisition is presented.

(5.) If and as often as any such requisition is duly presented to the local authority of a borough or town district which is a separate district, a poll of the electors of that borough or town district shall be taken on the day fixed for the next general election of the members of such local authority simultaneously with the poll (if any) taken for such election.

(6.) If and as often as any such requisition is duly presented to the convening local authority of a combined district consisting solely of two or more boroughs, a separate poll of the electors of each such borough shall be taken on the day fixed for the next general election of the local authority of that borough simultaneously with the poll (if any) taken for such election. All the separate polls so taken under the authority of this subsection shall be deemed to constitute a single poll, the result of which shall be determined by a majority of all the votes which have been given thereat.

(7.) If and as often as any such requisition is duly presented to the convening local authority of a combined district constituted otherwise than is mentioned in the last preceding subsection, a poll of the electors of all the constituent local authorities of that district shall be taken, in such manner as the convening local authority determines, on the day fixed for the next general election of the members of the convening local authority.

(8.) Subject to the provisions of this section, every poll taken under the authority thereof shall be taken in manner provided by "The Local Elections and Polls Act, 1908."

(9.) At every such poll each elector may vote for the appointment of any working-day as the statutory closing-day, and the statutory closing-day for the district shall be determined in accordance with the majority of the votes so given.

(10.) The result of every poll taken under the authority of this section shall be notified to the Minister under the hand of the Mayor, Chairman, or Clerk of the local authority in the case of a separate district, or of the convening local authority in the case of a combined district; and the Minister shall thereupon appoint the day determined by the result of such poll as the statutory closing-day for that district. Every such appointment shall be gazetted, and a copy of the *Gazette* containing a notice of such appointment shall be conclusive evidence that the same has been duly made according to the tenor of such notice.

(11.) On and after the first day of June following the gazetting of any such appointment, the day so appointed shall be the statutory closing-day for the district in respect of which such appointment is

made, and shall continue to be the statutory closing-day for that district until another day is appointed in accordance with the foregoing provisions of this section.

(12.) Until and unless the statutory closing-day in any district is determined and appointed in accordance with this section, it shall be determined and appointed in manner provided by the preceding sections.

Excepted shops.

18. The provisions of section eleven hereof (relating to the closing of shops on the statutory closing-day) shall be subject to the exceptions and modifications following:—

- (a.) (i.) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a fishmonger, a fruiterer, a confectioner, a florist, a refreshment-room keeper, a baker, or a bookstall-keeper on a railway-station or wharf, the occupier shall not be required to close his shop on any working-day:

Provided that the provisions of this paragraph shall not affect the right of any shop-assistant employed in any such excepted shop (other than a refreshment-room) to a half-holiday for the remainder of the day from one o'clock, or in the case of a refreshment-room from two o'clock, in the afternoon of such working-day in each week as the occupier, in the case of each individual shop-assistant, thinks fit.

- (ii.) For the purposes of this section—

A “fishmonger” means a person whose business is to sell fish or shell-fish:

A “fruiterer” means a person whose business is to sell fresh fruit or vegetables:

A “confectioner” means a person whose business is to sell confections or sweetmeats:

A “refreshment-room keeper” means a person whose business is to sell meals, but does not include an hotel-keeper:

A “baker” means a person whose business is to sell bread or cakes.

- (b.) In the case of any shop wherein is carried on the business of a butcher, a hairdresser, a tobacconist, or a photographer, the occupier may, in the event of Saturday being appointed as the statutory closing-day in the district, close his shop at the hour of one in the afternoon for the remainder of the day on some other working-day than Saturday in each week, as he thinks fit:

Provided that he lodges with the Inspector during the month of January in each year, or within one month

after the shop is first opened for business, as the case may be, a notice stating on what working-day in the week he intends to close his shop in lieu of Saturday.

- (c.) In any of the following cases the occupier of a shop may keep his shop open on the statutory closing-day after the prescribed time of closing, that is to say :—

(i.) In the case of a shop situate at a seaport, and kept open as aforesaid solely for the purpose of supplying goods to any ship or vessel arriving at the port on that day ; and

(ii.) In the case of a shop or warehouse in which the business carried on is the sale of machinery for harvesting purposes, or fittings for such machinery, and which is kept open as aforesaid during the time of harvest for the sole purpose of selling such machinery or fittings : and

(iii.) In the case of a shop wherein telephonic, telegraphic, or postal business is carried on on behalf of the Postmaster-General, and open as aforesaid solely for the purpose of such business ; provided that where such shop is the only shop in the locality within a radius of three miles, such shop may be kept open for ordinary business ; and

(iv.) In the case of a chemist's shop, for the sole purpose of supplying medicines and surgical appliances which are urgently required.

- (d.) Notwithstanding anything hereinbefore contained, a chemist may keep his shop open and employ his assistants (but only for the supply of medicines and surgical appliances) between the hours of seven and nine o'clock in the evening on the statutory closing-day.

#### Special holidays.

19. The following provisions shall apply with respect to the following special days—that is to say, Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Labour Day, the birthday of the reigning Sovereign, and any day which, pursuant to Proclamation by the Governor, or declaration by the Government, or on the request of the Mayor or Chairman of a local authority, is generally observed as a public holiday or half-holiday :—

- (a.) Where any such special day falls on another day than the statutory closing-day, it shall be deemed to be a sufficient compliance with the requirements of this Act relating to the weekly half-holiday if the occupier of a shop in the district duly complies with those requirements on the special day in lieu of on the statutory closing-day.
- (b.) Where any such special day falls on a Sunday, then for all the purposes of this section the next succeeding Monday shall be deemed to be the special day in lieu of the Sunday, and the provisions of this section shall be construed accordingly.

- (c.) Where any such special day falls on a Sunday or Monday, the occupier of a shop that is usually closed for a half-holiday on Saturday may keep his shop open on the Saturday next preceding such special day, provided that he closes his shop at one o'clock in the afternoon on some other working-day in the week.

When shop deemed not to be closed.

20. A shop shall be deemed not to be closed within the meaning of this Act if it is not locked or otherwise effectually closed against the admission of the public, or if the occupier or any of his assistants are engaged in canvassing for orders or delivering goods to customers; but where a shop and factory have a common entrance it shall be sufficient for the purposes of this Act if such entrance is closed but not locked.

In case of shop and factory combined.

21. Where a person is the occupier of both a shop and a factory, and employs any person partly in the one establishment and partly in the other, such last-mentioned person shall, for the purposes of the weekly half-holiday and the wages therefor, be deemed to be employed exclusively in that part of the establishment in which he is chiefly employed, as certified by the Inspector.

Wages to be paid for half-holiday.

22. The ordinary wages or salary of every shop-assistant shall be paid for the half-holiday hereinbefore provided, and for any holiday observed under section nineteen hereof, at the first regular pay-day after the half-holiday or holiday.

Assistants in hotels to have half-holiday.

23. All assistants employed in any hotel shall have a half-holiday from the hour of two of the clock in the afternoon of some working-day in each week.

Hairdresser who lets his chairs.

24. Where a person who carries on the business of a hairdresser lets any chair or part of his shop to any other person, such last-mentioned person shall, for all the purposes of this Act, be deemed to be a shop-assistant, and such first-mentioned person an employer.

### *Closing by Requisition.*

Fixing closing-hours of shops.

25. (1.) On the requisition in writing of a majority of the occupiers of all the shops in the district of any local authority, desiring that all the shops therein shall be closed in the evening of every working-day at an hour specified in the requisition, the Minister shall, by notice in the *Gazette*, direct that from and after a day therein men-

tioned all shops in the district shall be closed in accordance with the requisition : and in such case, and until upon a like requisition the *Gazette* notice is cancelled or varied by the Minister, all shops in the district shall be closed accordingly :

Provided that no requisition shall be acted upon by the Minister unless the local authority has certified that the signatures to the requisition represent a majority of the occupiers of all the shops within the district.

(2.) Such requisition may be limited to any particular trade or trades within the district, and in every case the provisions of the last preceding subsection shall, *mutatis mutandis*, apply to such limited requisition : and such requisition shall, with respect to the trade or trades mentioned therein, supersede any requisition applying to all shops in the district.

(3.) In either case such requisition may specify different hours for closing on different working-days, or an hour for closing on one day only.

(4.) Nothing in this section shall be construed as permitting any shop to remain open on any statutory closing-day after the prescribed time of closing.

(5.) For the purposes of this section the interpretation of " occupier " in section two hereof is so far modified as to include only British subjects, whether by naturalisation or otherwise.

(6.) No notice published by the Minister in pursuance of this section shall be cancelled or varied until the expiration of six months from the date of its publication in the *Gazette*.

(7.) For the purposes of this section each riding of a county shall be deemed to be a separate district within the jurisdiction of the County Council.

(8.) It shall not be lawful for the occupier of any shop to sell or deliver any tobacco, cigars, or cigarettes at any time while the shops of tobacconists in the same district are closed in pursuance of a requisition made under this section.

### *As to Hawkers.*

Hawkers deemed to be " occupiers."

26. With respect to hawkers and other persons who carry on business by selling or offering goods for sale by retail otherwise than in a shop, the following provisions shall apply :—

(a.) Every such person shall be deemed to be the occupier of a shop, and every assistant employed by him in or about such business shall be deemed to be a shop-assistant within the meaning of this Act.

(b.) Every such person shall be deemed to keep a shop open whenever and wherever for the time being he is selling or offering goods for sale by retail.

## OFFICES.

*Closing-hour for Offices.*

## Office hours.

27. (1.) Every office shall be closed not later than one of the clock in the afternoon on Saturday, and five of the clock in the afternoon on every other working-day, and shall continue closed for the remainder of the day :

Provided that this section shall not apply to shipping, railway, tramway, newspaper, telegraph agencies', cable companies', or telegraph companies' offices, or offices of freezing companies, or offices of forwarding agencies, or offices of auctioneers, banks, Harbour Boards, insurance companies, wholesale warehousemen, wool-brokers, or wool-buyers.

(2.) An office shall be deemed not to be closed within the meaning of this Act unless it is locked or otherwise effectually closed against the admission of the public.

## Provision for closing on statutory closing-day.

28. (1.) In the event of any other day than Saturday being appointed as the closing-day for shops in any district, the occupier of any office in such district shall be entitled to close his office on that day in lieu of Saturday :

Provided that he lodges with the Inspector during the month of January in each year, or within one month after the office is first opened for business, as the case may be, a notice in writing of his desire so to do.

(2.) Where a shop and office are conjoined in one in the same building, and under the one occupier, it shall be sufficient if the two divisions are closed on the day appointed for the closing of shops in the district.

## Wages to be paid for half-holiday.

29. The ordinary wages or salary of every office-assistant shall be paid for the half-holiday hereinbefore provided, and for any holiday mentioned in section nineteen hereof, at the first regular pay-day after the half-holiday or holiday.

*Employment of Office-assistants.*

## Employment after office hours.

30. (1.) An office-assistant shall not be employed in or about the office or its business after the expiration of half an hour after the hour when by this Act the office is required to be closed for the day.

(2.) An office-assistant shall be deemed to be employed in the office within the meaning of this section if he in fact does any work in or about the office, whether the occupier of the office has assented thereto or not.



(3.) In any case where an office-assistant is engaged in work connected with his employment in any place other than the office of his employer he shall while so engaged be deemed to be employed in the office within the meaning of this section.

#### Exemptions.

(4.) It shall not be deemed to be a breach of this section if, while an office is by this Act required to be closed, an office-assistant is employed in the office in the cases and for the purposes following :—

- (a.) In the case of a cashier or cash-book keeper, for the purpose of balancing his cash or cash-book after the close of the day's transactions, where a daily balance is usual :
- (b.) In the case of a ledger-keeper, for the purpose of the periodical balance of his ledger :
- (c.) In the case of any office-assistant, for the purpose of the yearly or half-yearly balance of the business of the office :

Provided that he shall in no case be employed under this paragraph for more than three hours in any one day, nor for more than four weeks at each balance, nor unless at least two weeks' previous written notice of the date of the balance has been given by the occupier of the office to the Inspector :

- (d.) In the case of any office-assistant, for the purpose of writing up the books for the day's transactions, or clearing up arrears in his office work due to special circumstances :

Provided that he shall in no case be employed under this paragraph for more than three hours on any one day, nor for more than six days in any one month :

- (e.) In the case of a messenger or caretaker, for the purpose of attending on any office-assistant lawfully employed in work under the provisions of this section.

#### Extra-time book.

(5.) The occupier of an office shall at all times keep a record-book, called the "extra-time book," wherein shall be entered a correct record showing, in the case of each office-assistant who is employed under the last preceding subsection, the name of the assistant, and the respective dates, periods, and purposes of such employment.

(6.) The extra-time book shall at all times be open to the inspection of the office-assistants and of the Inspector.

(7.) Payment shall be made at the first regular pay-day thereafter for all extended hours worked under the provisions of this section at the rate of not less than one and a half times the ordinary rate of payment.

Provided that in no case shall such rate of payment be less than ninepence an hour :

Provided also that no payment for such extended hours as aforesaid shall be made to any office-assistant whose wages are or exceed two hundred pounds per annum.

### SANITATION OF SHOPS AND OFFICES.

#### Sanitary rules.

31. For the better sanitation of shops and offices the following rules shall at all times be observed :—

- (a.) The shop or office shall be kept in a cleanly state, and free from any smell or leakage arising from any drain, privy, or other nuisance.
- (b.) Sufficient privy accommodation shall be provided for all persons employed in the shop or office, and, where members of both sexes are employed, not being members of the same family, the accommodation shall be entirely separate for each sex, so as to insure privacy.
- (c.) The shop or office shall not be overcrowded so as to injuriously affect the health of the persons employed therein.
- (d.) The shop or office shall be ventilated in such manner as to provide a sufficient supply of fresh air, and to carry off and render harmless, as far as practicable, all gases, fumes, dust, and other impurities arising in the course of the work carried on therein.
- (e.) Without limiting the operation of the last preceding paragraph, the Inspector may, by requisition to the occupier, require the occupier to supply fans or other efficient appliances to carry off and render harmless all such gases, fumes, dust, and other impurities.
- (f.) The Inspector may from time to time, by requisition to the occupier, determine as to the shop or office what space of cubic or superficial feet shall be reserved for the use of each person working therein, and the occupier shall cause the same to be reserved accordingly.
- (g.) The space to be reserved as aforesaid shall not be deemed to be reserved unless it is kept properly lighted and ventilated, and clear from all materials, goods, or tools other than those actually used or required by the person for whom the space is to be reserved.
- (h.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the shop or office.

#### In food and clothing shops.

32. (1.) If any person employed in or in connection with any shop in the manufacture, handling, or delivery of any bread, meat, milk, confectionery, or other article for human consumption, or of any

textile fabric, is in a state of health which, in the opinion of the Inspector, is likely to convey germs of disease or other contamination to any of the said articles, the Inspector shall forthwith report the same to the District Health Officer appointed under "The Public Health Act, 1908."

(2.) The Inspector shall serve upon the person so employed, either personally or by posting the same addressed to him at the shop, a notice requiring him to submit himself for examination to a medical authority.

(3.) Immediately upon service of such notice the person so employed shall cease to do any work in that shop until he has produced to the Inspector a certificate from such medical authority that his state of health is not likely to convey germs of disease or other contamination to any of the said articles.

(4.) If that person does any work in or about that shop after service of the said notice upon him without first obtaining the said certificate, he shall be liable to a fine not exceeding two pounds for every day on which he works in breach of this section.

(5.) In like manner the Inspector shall serve on the occupier of the shop a notice forbidding the employment of that person until he has produced a certificate as hereinbefore required.

(6.) If the occupier of the shop, after service upon him of the said notice, employs that person, he shall be liable to the same fine as is hereinbefore provided in the case of the person so employed.

#### Proceedings under other Acts.

33. Where it appears to an Inspector that any nuisance or sanitary defect in or in relation to a shop or office may be more effectually remedied or dealt with under any enactment relating to the public health or the local government than under this Act, the following provisions shall apply :—

(a.) He shall give notice of such nuisance or sanitary defect to the District Health Officer or local authority within whose district the nuisance or defect exists, and it shall be the duty of that District Health Officer or local authority, as the case may be, to take all necessary action under such enactment in order to effectually abate the nuisance or remedy the defect.

(b.) For the purposes of this Act, or of any such enactment as aforesaid, the Inspector may take with him into a shop or office any District Health Officer, or any Inspector of Nuisances, Surveyor, or other officer of any local authority; and every such officer may at all reasonable times enter and inspect any shop or office.

(c.) If any such officer is obstructed or hindered in the exercise of any of the powers conferred upon him by this section, the person obstructing or hindering him commits an offence.

## Inspector's requisitions.

34. With respect to requisitions under this Act by the Inspector to the occupier of a shop or office the following provisions shall apply :—

- (a.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on any one of the occupiers as defined in section two hereof, under his usual business name or style.
- (b.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the shop or office.
- (c.) The requisition, when served as aforesaid, shall bind every person who by section two hereof is included in the definition of " occupier."
- (d.) If the occupier considers the requisition to be unreasonable, he may appeal to the Magistrate, by filing in the Magistrate's Court nearest to the shop or office a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal.
- (e.) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within seven days after service of the requisition.
- (f.) Upon the notice of appeal being duly filed, the Magistrate shall fix a time for the hearing of the appeal, being the earliest convenient time, and the Clerk of the Court shall, by notice in the prescribed form, notify the appellant and the Inspector that the appeal will be heard by the Magistrate at the Courthouse at the time so fixed.
- (g.) On the hearing of the appeal the Magistrate may by order confirm, reverse, or modify the requisition as he thinks fit, and the order shall be final and binding on all parties.

## OFFENCES AND PROCEDURE.

## Occupier to comply with rules and requisitions.

35. In every case where by this Act—

- (a.) Any rule is required to be observed in a shop or office ; or
- (b.) Any requisition of an Inspector is served on the occupier of a shop or office ; or
- (c.) Any requirement, obligation, or provision is imposed or enacted with respect to a shop or office, the conduct of its business, the treatment of the persons employed therein, or otherwise,—

it shall be the duty of the occupier to cause each such rule, requisition, requirement, obligation, or provision to be faithfully observed and complied with.

## Forgery and false entries.

36. Every person is liable to a fine not exceeding twenty pounds, or to three months' imprisonment with hard labour, who—

- (a.) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, or other document which an Inspector is authorised to give or issue under this Act ; or
- (b.) Uses any such document knowing the same to be forged, counterfeited, or fraudulently altered ; or
- (c.) Personates any one named in any such document ; or
- (d.) Wilfully makes any false entry in any register, record, notice, or book required or authorised under this Act ; or
- (e.) Gives, or issues, or uses any certificate, consent, notice, or other document under this Act knowing the same to be untrue in any material particular.

Employment of assistant after prescribed time.

37. If any shop-assistant or office-assistant is employed at any work in connection with the business of any shop or office later than half an hour after the prescribed time of closing, the employer commits an offence in respect of each shop-assistant or office-assistant so employed.

Evidence of employment.

38. In any proceedings against the occupier of a shop or office for employing any assistant therein in breach of this Act, the fact of the assistant being found in the shop or office shall be evidence that he was then being employed therein, unless the defendant satisfies the Court that the assistant was not being employed but was there either against the orders or without the knowledge, consent, or connivance of the occupier.

Where no specific fine imposed.

39. Every person who commits a breach of any of the provisions of this Act for which no specific fine is provided elsewhere in this Act is liable to a fine not exceeding ten pounds for each such breach, and if the breach is a continuous one, then to a further fine not exceeding five pounds for each day on which the breach continues.

Proceedings to be before Magistrate alone.

40. All proceedings in respect of offences against this Act shall be taken in a summary way on the information or complaint of an Inspector, and shall be heard before a Magistrate alone.

Liability of other person in fault.

41. Where the occupier of a shop or office is charged with an offence, the following provisions shall apply :—

- (a.) On the information of the occupier, made before the charge against himself is disposed of, any other person whom he

alleges to be the actual offender may be brought before the Magistrate on the same charge: and, to enable both charges to be heard together, the charge against the occupier may be adjourned for such time as the Magistrate thinks reasonable.

- (b.) If the charges are heard together, and the offence is proved, but the occupier satisfies the Magistrate that it was in fact committed by the said other person without the knowledge, consent, or connivance of the occupier, and, further, that the occupier had done all that could reasonably be expected of him to prevent the offence, then the said other person shall be deemed to be liable, and shall be convicted, and not the occupier.
- (c.) If, before proceeding against the occupier, the Inspector is satisfied of such other person's liability, he shall proceed first against him instead of against the occupier, whereupon the provisions of the last preceding paragraph shall, *mutatis mutandis*, apply, and if such other person is convicted (but not otherwise) the occupier shall cease to be liable.

Magistrate may order work to be done.

42. If in any proceedings against any person for any offence against this Act the defendant is the occupier of a shop or office, and the offence consists of the non-observance of any rule or Inspector's requisition relating to sanitation or to the prevention of accidents, the following provisions shall apply:—

- (a.) The Magistrate, in addition to or in lieu of imposing a fine, may by order require the defendant to do any specified work, or to adopt any specified means for the purpose of preventing the further non-observance of the rule or requisition, and may specify a time within which the order shall be obeyed.
- (b.) The time so specified may be extended by the Magistrate on the application of the defendant.
- (c.) If the order is made in lieu of imposing a fine, then the Magistrate shall adjourn the proceedings until the expiry of the time specified in the order; and if the order is duly obeyed, he may, if he thinks fit, impose no fine in respect of the offence.
- (d.) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant shall be liable to a fine not exceeding ten pounds for every day during which such default continues.
- (e.) Such last-mentioned fine shall be irrespective of the fine in respect of the original offence.

## Proceedings by Inspector.

43. With respect to proceedings by an Inspector against any person for any offence against this Act the following provisions shall apply :—

- (a.) The proceedings shall be commenced within one month after the offence was committed if the maximum fine does not exceed ten pounds, and within three months thereafter in any other case :

Provided that if the offence consists of non-compliance with the Inspector's requisition, and notice of appeal has been given, then the proceedings shall not be commenced, nor shall the aforesaid limit of time begin to run, until the appeal has been disposed of.

- (b.) The proceedings shall be deemed to be commenced when the information or complaint is laid or made by the Inspector.
- (c.) For the purposes of the aforesaid limit of time a continuing offence shall be deemed to be committed on the latest day on which it is continued next preceding the commencement of the proceedings.
- (d.) It shall be sufficient to allege that a shop or office is a shop or office.
- (e.) It shall be sufficient to state the name of the ostensible occupier of a shop or office, or the style or title under which the occupier is usually known or carries on business.
- (f.) It shall lie on the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary for the Inspector to negative the same in the information or complaint.
- (g.) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form.
- (h.) The Inspector, and every other person who may be dissatisfied with the judgment of the Court on any summary proceedings under this Act, may appeal to the Supreme Court or to a District Court in the manner provided by "The Justices of the Peace Act, 1908."

Liability to fine does not relieve from payment of wages.

44. The fact that an occupier is liable to a fine under this Act for non-payment of wages or salary in respect of a holiday or half-holiday shall not relieve him from his civil liability to make the payment.

## MISCELLANEOUS.

Inspector to see Act carried out.

45. It shall be the duty of every Inspector to see that the provisions of this Act are properly carried out, and to prosecute all parties guilty of any breach thereof.

## Inspector's powers.

46. (1.) For the purposes of this Act every Inspector shall have the same right of entry into and inspection of a shop or office subject to the provisions of this Act as he would have in respect of a factory :

Provided that the powers of inspection herein conferred upon an Inspector shall not confer upon him the power to inspect books other than those in which the time worked and wages paid are shown, and those referred to in subsections five and six of section thirty hereof.

(2.) Every occupier of a shop or office who refuses to allow such entry or inspection is liable to a fine not exceeding five pounds.

## Regulations.

47. The Governor may from time to time, by Order in Council gazetted, make regulations for any purposes contemplated or required by this Act.

## Fees and fines payable to Public Account.

48. All fees and fines received under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

## Commercial travellers excepted from Act.

49. Nothing in this Act shall apply to *bona fide* commercial travellers, meaning thereby persons employed by merchants as commercial travelling agents for the purpose of selling goods to or seeking orders for goods from persons who are dealers therein and who buy to sell again.

## Exception as to tending horses.

50. Nothing in this Act shall render the occupier of any shop liable to any penalty in respect of the employment during the hours when the shop is required to be closed of any shop-assistant in feeding and tending horses used in the business of the occupier.

---

SCHEDULES.

---

FIRST SCHEDULE.

## ENACTMENTS CONSOLIDATED.

1904, No. 52.—“The Shops and Offices Act, 1904.”

1905, No. 43.—“The Shops and Offices Act Amendment Act, 1905.”

1907, No. 74.—“The Shops and Offices Act Amendment Act, 1907.”



## SECOND SCHEDULE.

## HOURS OF EMPLOYMENT IN CERTAIN TRADES.

—				Hour on Statutory Half- holiday.	Hour on One Working-day in each Week.	Hour on all other Working-days.
Bakers	..	..	..	10.30 p.m.	11 p.m.	10.30 p.m.
Butchers	..	..	..	1 p.m.	10 p.m.	6 p.m.
Chemists	..	..	..	1 p.m.	9 p.m.	8 p.m.
Confectioners	..	..	..	10.30 p.m.	11 p.m.	10.30 p.m.
Dairy-produce sellers	..	..	..	1 p.m.	10 p.m.	6 p.m.
Fishmongers	..	..	..	10.30 p.m.	11 p.m.	10.30 p.m.
Florists	..	..	..	1 p.m.	10 p.m.	8 p.m.
Fruiterers	..	..	..	10.30 p.m.	11 p.m.	10.30 p.m.
Hairdressers	..	..	..	1 p.m.	10.30 p.m.	8 p.m.
Newsagents	..	..	..	1 p.m.	10 p.m.	8 p.m.
Pork-butchers	..	..	..	1 p.m.	11 p.m.	10.30 p.m.
Refreshment-room keepers	..	..	..	11.45 p.m.	11.45 p.m.	11.45 p.m.
Tobacconists	..	..	..	1 p.m.	10.30 p.m.	8 p.m.

## THE TRADE-UNIONS ACT, 1908.

1908. No. 196.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Regulation and Management of Trade-unions in New Zealand.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is “The Trade-unions Act, 1908.”

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

(a.) All offices, appointments, Orders in Council, orders, regulations, rules, certificates, registers, registrations, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are sub-

sisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

#### Interpretation.

2. In this Act, if not inconsistent with the context,—

“Secretary” and “treasurer” respectively include any officer of a trade-union acting in the capacity of such secretary or treasurer, or any other person so acting, whether an officer of the union or not :

“Trade-union” means any combination, whether temporary or permanent, for regulating the relations between workers and employers, or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if this Act had not come into operation, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade :

Provided that this Act shall not affect—

- (a.) Any agreement between partners as to their own business :
- (b.) Any agreement between an employer and those employed by him as to such employment :
- (c.) Any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade, or handicraft.

#### *Criminal Provisions.*

##### Trade-union not criminal.

3. The purposes of any trade-union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade-union liable to criminal prosecution for conspiracy or otherwise.

##### Trade-union not unlawful.

4. The purposes of any trade-union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust.

Trade-union contracts when not enforceable.

5. Nothing in this Act shall enable any Court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely :—

- (a.) Any agreement between members of a trade-union as such, concerning the conditions on which any members for the time being of such trade-union shall or shall not sell their goods, transact business, employ, or be employed :
- (b.) Any agreement for the payment by any person of any subscription or fine to a trade-union :
- (c.) Any agreement for the application of the funds of a trade-union—
  - (i.) To provide benefits to members ; or
  - (ii.) To furnish contributions to any employer or worker not a member of such trade-union, in consideration of such employer or worker acting in conformity with the rules or resolutions of such trade-union : or
  - (iii.) To discharge any fine imposed on any person by sentence of a Court of justice :
- (d.) Any agreement made between one trade-union and another :
- (e.) Any bond to secure the performance of any of the above-mentioned agreements :

But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

Certain Acts not to apply to trade-unions.

6. The following Acts, that is to say,—

- (a.) “ The Companies Act, 1908 ” ;
- (b.) “ The Life Insurance Act, 1908 ” ;
- (c.) “ The Friendly Societies Act, 1908 ” : and
- (d.) “ The Industrial and Provident Societies Act, 1908 ”—

shall not apply to any trade-union, and the registration of any trade-union under any of the said Acts shall be void.

Trade unions to be subject to section 71 of Friendly Societies Act.

7. Notwithstanding anything in the last preceding section a trade-union, whether registered or unregistered, which insures or pays money on the death of a child under ten years of age shall be deemed to be within the provisions of section seventy-one of “ The Friendly Societies Act, 1908.”

### *Registered Trade-unions.*

Registry of trade-unions.

8. (1.) Any seven or more members of a trade-union may, by subscribing their names to the rules of the union, or otherwise complying

with the provisions of this Act with respect to registry, register such trade-union under this Act, provided that if any one of the purposes of such trade-union is unlawful such registration shall be void.

(2.) Every trade-union registered under "The Trade Union Act, 1878," and subsisting on the coming into operation of this Act, shall be deemed to be registered under this Act.

Buildings for trade-unions may be purchased or leased.

9. (1.) Any trade-union registered under this Act may purchase or take on lease in the names of the trustees for the time being of such union any land not exceeding one acre, and sell, exchange, mortgage, or let the same; and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting; and the receipt of the trustees shall be a discharge for the money arising therefrom.

(2.) For the purpose of this section every branch of a trade-union shall be considered a distinct union.

Property of trade-unions vested in trustees.

10. (1.) All real and personal estate whatsoever belonging to any trade-union registered under this Act shall be vested in the trustees for the time being of the trade-union appointed as provided by this Act, for the use and benefit of such trade-union and the members thereof, and the real and personal estate of any branch of a trade-union shall be vested in the trustees of such branch, or of the trustees of the trade-union, if the rules of the trade-union so provide, and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests.

(2.) On the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, save and except in the case of funds invested in any debentures, bonds, or Treasury bills issued under any Act which shall be transferred into the names of such new trustees.

(3.) In all actions, or indictments, or summary proceedings before any Court of summary jurisdiction touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade-union, without any further description.

Provision in case of absence, &c., of trustee.

11. (1.) Where any person, being or having been a trustee of a trade-union or of any branch of a trade-union, and whether appointed before or after the legal establishment thereof, in whose name any funds, debentures, securities, or moneys belonging to such union or

branch are standing, either jointly with another or others, or solely, is absent from New Zealand, or becomes bankrupt, or files any petition, or executes any deed, assignment, arrangement, or composition with his creditors, or becomes a lunatic, or is dead, or has been removed from his office of trustee, or if it is unknown whether such person is living or dead, the Registrar, on application in writing from the secretary and three members of the union or branch, and on proof satisfactory to him, may direct the transfer of such funds, debentures, securities, or moneys into the names of any other persons as trustees for the union or branch.

(2.) Such transfer shall be made by the surviving or continuing trustees, and if there are no such trustees, or if such trustees refuse or are unable to make such transfer, the Registrar may direct that, where such funds, debentures, securities, or moneys—

(a.) Are standing in the books of the Minister of Finance, or are in his control, such transfer be made by the Minister or some officer of the Government to be named in the order :

(b.) Are standing in the books or in the control of any bank or banking corporation or other corporation or body, such transfer be made by some officer of such bank or banking corporation, or other corporation or body, to be named in the order :

(c.) Are standing in the books or are in the hands or control of any other person or persons, such transfer be made by such person or persons.

(3.) The Minister of Finance and every such bank and banking corporation, and all corporations, companies, and persons, and their officers and servants respectively, are hereby indemnified for anything done by him or them, or any of his or their officers, in pursuance of this section against any claim or demand of any person injuriously affected thereby.

#### ACTIONS BY OR AGAINST TRUSTEES.

12. (1.) The trustees of any trade-union registered under this Act, or any other officer of such trade-union authorised so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, prosecution, or complaint in any Court touching or concerning the property, right, or claim to property of the trade-union.

(2.) In all cases concerning the real or personal property of such trade-union the trustees shall and may sue and be sued in any Court in their proper names, without other description than the title of their office.

(3.) No such action, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons or any of them, but the same shall and may be proceeded in by their successor or successors as if such death, resignation, or removal had

not taken place ; and such successor shall pay or receive the like costs as if the action, prosecution, or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such trade-union, and the summons to be issued to such trustee or other officer may be served by leaving the same at the registered office of the trade-union.

Limitation of responsibility of trustees.

13. A trustee of any trade-union registered under this Act shall not be liable to make good any deficiency which may arise or happen in the funds of such trade-union, but shall be liable only for the moneys actually received by him on account of such trade-union.

Treasurer of trade-union to account.

14. (1.) Every treasurer of a trade-union registered under this Act, at such times as by the rules of such trade-union he should render such account as hereinafter mentioned, or on being required so to do, shall render to the trustees of the trade-union, or to the members of such trade-union at a meeting of the trade-union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade-union ; which account the said trustees shall cause to be audited by some fit and proper person or persons to be appointed by them.

(2.) Such treasurer, if thereunto required, on the said account being audited shall forthwith hand over to the said trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers, and property of the said trade-union in his hands or custody.

(3.) If he fails to do so the trustees of the trade-union may sue him in any Court of competent jurisdiction for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received by him on account of the trade-union, and for the securities and effects, books, papers, and property in his hands or custody, leaving him to set off in such action the sums (if any) he may have since paid on account of the trade-union ; and in such action the trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client.

Punishment for withholding money.

15. If any officer, member, or other person being or representing himself to be a member of a trade-union registered under this Act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition obtains possession of any moneys, securities, books, papers, or other effects of such trade-union, or, having the same in his possession, wilfully with-

holds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade-union, or any part thereof, he shall, on complaint made by any person on behalf of such trade-union, or by the Registrar, be liable on summary conviction to a fine not exceeding fifty pounds and costs, and to be ordered to deliver up all such property, or to repay all moneys applied improperly, and in default of such delivery or repayment, or of the payment of such fine and costs aforesaid, to be imprisoned with or without hard labour for any term not exceeding six months; but nothing herein shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under the provisions of this Act.

*Registry of Trade-unions.*

Registrar of trade-unions.

16. (1.) The Registrar of Friendly Societies shall be the Registrar under this Act.

Annual report to Governor.

(2.) The Registrar shall make an annual report to the Governor with respect to the matters transacted by him in pursuance of this Act, and the Governor shall cause copies of such report to be laid forthwith before Parliament if in session, or if not, then within one month from the commencement of the next ensuing session.

Regulations for registry.

17. With respect to the registry under this Act of a trade-union, and of the rules thereof, the following provisions shall have effect:—

- (a.) An application to register the trade-union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the Registrar.
- (b.) The Registrar, on being satisfied that the trade-union has complied with the regulations respecting registry in force under this Act, shall register such trade-union and such rules.
- (c.) No trade-union shall be registered under a name identical with that under which any other existing trade-union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public.
- (d.) Where a trade-union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such trade-union, in the same form and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar.

- (c.) The Registrar on registering such trade-union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the provisions of this Act with respect to registry have been complied with.

Rules of registered trade-unions.

18. With respect to the rules of a trade-union registered under this Act the following provisions shall have effect :—

- (a.) The rules of every such trade-union shall contain provisions in respect of the several matters mentioned in the Second Schedule hereto.
- (b.) A copy of the rules shall be delivered by the trade-union to every person on demand on payment of a sum not exceeding one shilling.

Registered office of trade-union.

19. (1.) Every trade-union registered under this Act shall have a registered office to which all communications and notices may be addressed ; if any trade-union under this Act is in operation for seven days without having such an office, such trade-union and every officer thereof shall each be liable to a fine not exceeding five pounds for every day during which it is so in operation.

(2.) Notice of the situation of such registered office, and of any change therein, shall be given to the Registrar and be recorded by him ; and until such notice is given the trade-union shall not be deemed to have complied with the provisions of this Act.

Withdrawal or cancelling of certificate.

20. (1.) No certificate of registration of a trade-union shall be withdrawn or cancelled otherwise than by the Registrar and in the following cases :—

- (a.) At the request of the trade-union, to be evidenced in such manner as the Registrar from time to time directs :
- (b.) On proof to his satisfaction that the certificate has been obtained by fraud or mistake, or that the registration of the trade-union has become void under section eight hereof, or that such trade-union has wilfully, and after notice from the Registrar, violated any of the provisions of this Act, or has ceased to exist.

(2.) Not less than two months' previous notice in writing, specifying briefly the ground of any proposed withdrawal or cancelling of certificate (unless where the same is shown to have become void as aforesaid, in which case it shall be the duty of the Registrar to cancel the same forthwith), shall be given by the Registrar to a trade-union before the certificate of registration of the same can be withdrawn or cancelled (except at its request).



(3.) A trade-union whose certificate of registration has been withdrawn or cancelled shall, from the time of such withdrawal or cancelling, absolutely cease to enjoy as such the privileges of a registered trade-union, but without prejudice to any liability actually incurred by such trade-union, which may be enforced against the same as if such withdrawal or cancelling had not taken place.

Membership of unions.

21. A person under the age of twenty-one but above the age of fourteen years may be a member of a trade-union, unless provision is made in the rules thereof to the contrary; and may, subject to the rules of the trade-union, enjoy all the rights of a member except as herein provided, and execute all instruments and give all acquittances necessary to be executed or given under the rules; but shall not be a member of the committee of management, trustee, or treasurer of the trade-union.

Nominees of deceased members may receive under £50.

22. A member of a trade-union not being under the age of fourteen years may, by writing under his hand, delivered at or sent to the registered office of the trade-union, nominate any person not being an officer or servant of the trade-union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator) to whom any moneys payable on the death of such member not exceeding fifty pounds shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent; and on receiving satisfactory proof of the death of a nominator, the trade-union shall pay to the nominee the amount due to the deceased member not exceeding the sum aforesaid.

Change of name.

23. (1.) A trade-union may, with the approval in writing of the Registrar, change its name by the consent of not less than two-thirds of the total number of members.

(2.) No change of name shall affect any right or obligation of the trade-union or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the trade-union or any other officer who may sue or be sued on behalf of such trade-union notwithstanding its new name.

Amalgamation.

24. Any two or more trade-unions may, with the consent of not less than two-thirds of the members of each or every such trade-union, become amalgamated together as one trade-union, with or without any dissolution or division of the funds of such trade-unions, or either or any of them; but no amalgamation shall prejudice any right of a creditor of any union party thereto.

## Registration of changes and amalgamations.

25. Notice in writing of every change of name or amalgamation, signed, in the case of a change of name, by seven members, and countersigned by the secretary of the trade-union changing its name, and accompanied by a declaration by such secretary that the provisions of this Act in respect of changes of names have been complied with, and in the case of an amalgamation signed by seven members, and countersigned by the secretary of each or every union party thereto, and accompanied by a declaration by each or every such secretary that the provisions of this Act in respect of amalgamations have been complied with, shall be sent to the Registrar and registered in his office, and until such change of name or amalgamation is so registered the same shall not take effect.

## Dissolution.

26. The rules of every trade-union shall provide for the manner of dissolving the same, and notice of every dissolution of a trade-union under the hand of the secretary and seven members of the same shall be sent within fourteen days thereafter to the Registrar.

## Failure to give notice.

27. A trade-union which fails to give any notice or send any document which it is required by this Act to give or send, and every officer or other person bound by the rules thereof to give or send the same, or if there is no such officer, then every member of the committee of management of the union, unless proved to have been ignorant of or to have attempted to prevent the omission to give or send the same, is liable to a fine not exceeding five pounds and not less than one pound, recoverable at the suit of the Registrar or of any person aggrieved, and to an additional fine of the like amount for each week during which the omission continues.

## Annual returns to be prepared as Registrar may direct.

28. (1.) A general statement of the receipts, funds, effects, and expenditure of every trade-union registered under this Act shall be transmitted to the Registrar before the first day of June in every year, and shall show fully the assets and liabilities at the date, and the receipts and expenditure of the trade-union during the year preceding the date, to which it is made out.

(2.) Such statement shall show separately the expenditure in respect of the several objects of the trade-union, and shall be prepared and made out up to such date, in such form, and shall comprise such particulars as the Registrar from time to time requires.

(3.) Every member of and depositor in any such trade-union shall be entitled to receive, on application to the treasurer or secretary of that trade-union, a copy of such general statement, without making any payment for the same.

(4.) Together with such general statement there shall be sent to the Registrar a copy of all alterations of rules and new rules and changes of officers made by the trade-union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade-union as they exist at that date.

(5.) Every trade-union which fails to comply with or acts in contravention of this section, and also every officer of the trade-union so failing, is each liable to a fine not exceeding five pounds for each offence.

(6.) Every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement or in or from the return of such copies of rules or alterations of rules, is liable to a fine not exceeding fifty pounds for each offence.

*Circulating false copies of rules, &c.*

29. If any person with intent to mislead or defraud gives to any member of a trade-union registered under this Act, or to any person intending or applying to become a member of such trade-union, a copy of any rules or of any alterations or amendments of the same other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such trade-union, or that there are no other rules of such trade-union, or if any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade-union registered under this Act which is not so registered, he shall be liable on indictment to a fine not exceeding fifty pounds, or to imprisonment with or without hard labour for any term not exceeding two years.

### *Miscellaneous.*

*Summary proceedings for offences, fines, &c.*

30. With respect to offences the following provisions shall have effect:—

(a.) All offences and fines under this Act (otherwise than under section twenty-nine hereof) may be prosecuted and recovered in a summary way, in the manner directed by "The Justices of the Peace Act, 1908," as respects a prosecution against a trade-union or branch, or its officers, in the place where the registered office of the trade-union is, or where the offence was committed, or as respects any prosecution against any person other than a trade-union or branch, or its officers, in the place where such person is resident at the time of the institution of such prosecution, or where the offence was committed.

(b.) In any information or complaint under this Act it is sufficient to describe the offence in the words of this Act, and no exemption, proviso, excuse, or qualification accompanying the description of the offence in this Act need be specified or negatived.

Governor may make regulations.

31. (1.) The Governor may from time to time make regulations respecting registry and procedure under this Act, and the seal and forms to be used for such registry, and the duties and functions of the Registrar, and the inspection of documents kept by the Registrar under this Act, and generally for carrying this Act into effect.

(2.) All such regulations shall, within ten days after the making thereof, be laid before Parliament if sitting, or if not, then within ten days from the commencement of the next ensuing session.

(3.) A copy of such regulations shall, if Parliament is not then sitting, be sent by post to every registered trade-union or branch at least one month previous to being laid before Parliament.

Governor may fix fees.

32. (1.) The Governor may from time to time determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Act.

(2.) All fees and moneys received by the Registrar under or by virtue of this Act shall be paid into the Public Account and form part of the Consolidated Fund.

Expenses of Act.

33. The expenses of carrying this Act into execution shall be defrayed by the Minister of Finance out of moneys to be appropriated by Parliament for the purpose.

Proof of instruments.

34. Every instrument or document, copy or extract of an instrument or document, bearing the seal or stamp of the Registrar shall be received in evidence without further proof: and every document purporting to be signed by the Registrar shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### ENACTMENTS CONSOLIDATED.

1878, No. 8.—“The Trade Union Act, 1878.”

1896, No. 24.—“The Trade Union Act 1878 Amendment Act, 1896.”

---

### SECOND SCHEDULE.

#### MATTERS TO BE PROVIDED FOR BY THE RULES OF TRADE-UNIONS REGISTERED UNDER THIS ACT.

1. The name of the trade-union and place of meeting for the business of the trade-union.

2. The whole of the objects for which the trade-union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such trade-union.

3. The manner of making, altering, amending, and rescinding rules.

4. A provision for the appointment and removal of a general committee of management, or of a trustee or trustees, treasurer, and other officers.

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.

6. The inspection of the books and names of members of the trade-union by every person having an interest in the funds of the trade-union.

## THE WAGES PROTECTION AND CONTRACTORS' LIENS ACT, 1908.

1908, No. 204.

AN ACT to consolidate certain Enactments of the General Assembly relating to Payment of Wages due to Workers and Money due to Workers and Contractors.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. (1.) The Short Title of this Act is “The Wages Protection and Contractors’ Liens Act, 1908.”

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

Savings.

(a.) All liens, charges, notices, claims, Orders in Council, rules, orders, registers, registrations, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) This Act is divided into Parts, as follows :—

PART I.—Protection of Wages. (Sections 2 to 27.)

PART II.—Truck. (Sections 28 to 47.)

PART III.—Contractors' and Workers' Liens. (Sections 48 to 95.)

## PART I.

### PROTECTION OF WAGES.

#### Interpretation.

2. (1.) In this Part of this Act, if not inconsistent with the context,—

“ Clerk of Court ” means the Clerk of the Magistrate's or District Court, and includes the Registrar and Deputy Registrar of the Supreme Court :

“ Contractor ” means a person who contracts directly with the employer for the performance of work for him ; and “ subcontractor ” means a person who contracts with a contractor, or with another subcontractor, for the performance of work for such contractor or subcontractor :

“ Court ” means the Court in which any proceedings may be taken under this Act, and includes the Judge of any such Court, and a Magistrate in any matter in which such Magistrate has jurisdiction :

“ Employer ” means any person at whose request, or upon whose credit, or on whose behalf, with his privity or consent, work is done, and includes also all persons claiming under him whose rights are acquired after the work in question is commenced :

“ Wages ” includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, remuneration, or consideration for any service, work, or labour rendered or done, or to be rendered or done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, and whether payable daily, weekly, monthly, or otherwise :

“ Worker ” means any person, male or female, whether under or not under the age of twenty-one years, in any manner engaged or employed in manual labour or in work of any kind, and whether the worker's remuneration is to be according to time or by piecework, or at a fixed price, or otherwise howsoever.

(2.) This Part of this Act shall be read with and shall be subject to the succeeding Parts of this Act.

Workers employed in manual labour to be paid weekly.

3. In the absence of an agreement in writing to the contrary, the entire amount of wages earned by or payable to any worker engaged or employed in manual labour shall be paid to such worker at intervals of not more than one week.

Wages to be first charge on money due to or in hands of contractor.

4. The wages due to workers employed on any contract, work, or undertaking shall, subject to the employer's rights as mentioned in section fifteen hereof, be a first and paramount charge upon the moneys due to the contractor by the employer under or in respect of the contract, work, or undertaking :

Provided that until service of notice of attachment, as hereinafter mentioned, the employer shall be at liberty to pay to the contractor all moneys which have accrued due and are payable by the employer to the contractor under or in respect of the contract, work, or undertaking.

Assignment of money due or received under contract to have no effect until wages paid to workers.

5. Every assignment, disposition, or charge (legal or equitable) made or given by the contractor to any person whomsoever, other than his workers for wages due to them, of or upon the moneys due or to become due to him under or in respect of the contract, work, or undertaking shall have no force or effect at law or in equity as against all wages due and to accrue due to the workers.

Moneys received by contractor not to be attached, and to be applied in payment of wages due.

6. Moneys received by the contractor from the employer under or in respect of the contract, work, or undertaking shall not be liable to be attached or charged, except by the workers as hereinafter mentioned, until all wages due or to accrue due to the workers have been fully paid and satisfied : and the contractor shall apply all such moneys in payment of the wages due and to accrue due to the workers.

Contractor to keep accounts and to produce same to workers.

7. The contractor shall keep a full and truthful account in writing of all such moneys received by him as aforesaid, and of the manner in which the same are disbursed or disposed of, and shall, on the application of any worker whose wages are more than eight clear days in arrear, and have not been paid when demanded, produce such account to such worker for his inspection, and such worker shall be at liberty to take a copy of or extracts from the said account.

Employer not to pay contractor in advance.

8. If the employer pays the contractor in advance, then in any proceedings by workers against the employer under this Part of this Act the employer shall not be entitled to set off any such payments against the wages due to and claimed by the workers.

Worker whose wages are in arrear may attach moneys in hands of employer.

9. (1.) Any worker whose wages remain unpaid for twenty-four hours after they become payable and have been demanded may serve

the employer, or his attorney or agent, with a notice of attachment in the form numbered (1) in the Second Schedule hereto or to the effect thereof; and upon service thereof all moneys due and thereafter to become due and payable to the contractor shall be attached, and shall be retained by the employer until the Court in which the claim is heard directs to whom and in what manner the same are to be paid.

(2.) But any employer may pay into the aforesaid Court the sum mentioned in the notice of attachment, if such sum is an ascertained and fixed sum, and the receipt of the Clerk of such Court for the said sum shall be a full discharge to the employer of his liability under the attachment.

Worker obtaining judgment against the contractor, Court may order employer to pay him.

10. In the event of the worker obtaining judgment against the contractor for the wages claimed, or any part thereof, he may obtain from the Court an order, in the form numbered (2) in the Second Schedule hereto or to the effect thereof, for the payment by the contractor's employer of the amount of the judgment, and may serve a copy of such order upon such employer or his attorney or agent.

Employer to pay worker when ordered.

11. At the expiration of seven days after service of such last-mentioned order, but not earlier, the employer shall out of the moneys attached in his hands, pay the amount stated in such order to the worker, who thereupon shall give the employer a discharge for such amount in the form numbered (3) in the Second Schedule hereto or to the effect thereof.

Workers to be paid according to priority of notice. Notices served within seven days deemed to be simultaneous.

12. All moneys attached as aforesaid shall be paid by the employer in priority according to the order of the service of the notices attaching such moneys; but all notices served within seven days of the first of such notices of attachment shall be deemed to be served simultaneously, for the purpose of securing the equal distribution of the moneys attached amongst all workers serving such notices within the aforesaid seven days.

Simultaneous notices to rank equally among themselves.

13. All demands for wages of workers who serve simultaneous notices as aforesaid shall rank equally among themselves, and shall be paid in full, unless the moneys attached in the hands of the employer are insufficient to meet them, in which case they shall abate in equal proportions between themselves.

Employer served with notice liable only for amount due by him to contractor.

14. The employer served with an order or orders under this Part of this Act shall not be liable to make good any demand made on him



to a greater extent than the sum which is actually due and owing by him to the contractor at the time of the service of such order, or the payment thereunder.

On failure to pay, worker may sue person served with notice.

15. If the employer served with notice of attachment and order for payment fails to pay as aforesaid, the worker may sue for and recover in his own name, in any Court having jurisdiction in the matter, the moneys attached by any proceeding which the contractor might have taken had there been no attachment under this Part of this Act, subject to the right of the employer to set off against the worker's demand all moneys properly paid by the employer to the contractor under the contract prior to the service of the notice of attachment, and also all moneys which the contractor was at the time of the service of the notice of attachment liable to pay to the employer under the contract, or in consequence of any breach or non-performance thereof.

On satisfaction of demand, attachment of moneys to cease to operate.

16. Upon satisfaction of the worker's demand mentioned in any order for payment under this Part of this Act, or on the setting-aside of such order, any attachment of moneys effected under this Part of this Act shall cease to be operative, but without prejudice to any *bona fide* payment by the employer served with an order for payment in accordance with such order previous to his receiving notice of such satisfaction or setting-aside of the order.

Worker on payment to sign a discharge.

17. The worker shall, on the request of the person paying to him the demand specified in any order for payment under this Part of this Act, and at the time of receiving the same, sign a discharge therefor in the form numbered (3) in the Second Schedule hereto or to the effect thereof.

Other remedies not to be affected or rights between parties varied.

18. Nothing in this Part of this Act shall be construed to prejudice any other remedy which a worker may have against the contractor in respect of the debt due to him, or, save as expressly provided, to affect any right subsisting under any contract between any contractor and the person employing him.

Not to apply to personal chattels in possession of worker.

19. Nothing in this Part of this Act shall be construed to lessen the security held in respect of work done upon a movable chattel by a worker who has a right of a lien thereon and may retain or sell the same in payment of his work, under the provisions of section ninety-one hereof.

## Power of Court to determine all questions, &amp;c.

20. The Court shall have full power to inquire into, adjudicate upon, adjust, and settle in a summary manner all questions and disputes arising between the contractor and employer, or between workers and the contractor or employer, or between the workers *inter se*, and may summon before it and examine the parties and their witnesses, and may vary and rescind all such orders, and give all such directions respecting the matters brought before it as it considers necessary.

## Court may award costs.

21. In all proceedings under this Part of this Act the Court shall have power to award costs to any of the parties to such proceedings.

## Rules of Court to apply. Power to Governor to make rules.

22. (1.) All proceedings in any Court under this Part of this Act shall be subject to the rules of the Court for the time being in force relating to other proceedings in the Court, so far as the same can be; and the Governor in Council may from time to time, subject to the provisions of this Part of this Act, make rules for carrying into effect the objects of this Part of this Act.

(2.) Such rules shall be published in the *Gazette*, and shall come into force on the date of such publication.

## Service of orders, notices, &amp;c.

23. (1.) All notices, orders, or documents required by this Part of this Act to be served on any person shall be served either personally or by registered letter addressed and posted to the last known place of abode or business of such person, or shall be served in such manner and on such person as the rules direct, or as the Court or the Judge thereof in any particular case, by memorandum indorsed on the notice, order, or document to be served, directs.

(2.) Service by post shall not be deemed to have been effected until the time when the notice, order, or document would be delivered in the ordinary course of the post.

## Offences.

24. (1.) If the employer or contractor, by himself or the agency of any other person, contravenes or, without good reason, fails to comply with any of the provisions of this Part of this Act, such employer, contractor, or agent shall be deemed guilty of an offence against this Part of this Act, and be liable to a fine not exceeding fifty pounds, or in default of payment thereof to imprisonment, with or without hard labour, for a period not exceeding three months.

## When agent of contractor liable.

(2.) Where an offence for which an employer or contractor is by virtue of this Part of this Act liable to a fine has, in fact, been com-

mitted by some agent of the employer or contractor, or other person, such agent or other person shall be liable to the same fine as if he were the employer or contractor.

Employer or contractor exempt from liability on conviction of actual offender.

(3.) Where an employer or contractor is charged with an offence against this Part of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or contractor proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Part of this Act, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer or contractor shall be exempt from liability.

Workers in service of subcontractor to have same rights and remedies as workers in service of contractor against employer.

25. (1.) Where any work is let by a contractor to a subcontractor, every worker in the service of such subcontractor shall have the same rights and remedies in all respects against the first-mentioned contractor as a worker in the service of a contractor has under this Part of this Act against the employer of such last-mentioned contractor.

(2.) For the purpose of giving effect to this section all the foregoing provisions of this Part of this Act shall be read as if there had been enacted therein respectively the word "contractor" in the place of the word "employer" and the word "subcontractor" in the place of the word "contractor."

Fines to be recovered summarily.

26. All fines under this Part of this Act may be recovered in a summary way before a Magistrate.

### *Attachment of Wages.*

No order to be made attaching wages. Exception. Costs.

27. (1.) No order attaching or charging the wages of any worker shall be made by any Court, or any Judge or Magistrate, except as follows, that is to say: If the amount of wages exceeds the rate of two pounds per week, any surplus above that sum shall be liable to attachment as before the passing of this Act; but the costs or expenses of any such attachment shall not be chargeable against the worker unless by virtue of such attachment the creditor recovers a sum equal to or greater than the amount of such costs and expenses.

(2.) This section shall not affect any order made under "The Industrial Schools Act, 1908," or "The Destitute Persons Act 1908."

## PART II.

## TRUCK.

## Interpretation.

28. In this Part of this Act, if not inconsistent with the context,—

“Contract” includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and worker are parties, or are assenting, or by which they are mutually bound to each other, or whereby either of them has endeavoured to impose an obligation on the other of them :

“Employer” includes any master, manager, foreman, clerk, or other person engaged in the hiring, employment, or superintendence of the service, work, or labour of any worker within the meaning of this Part of this Act :

“Money” means coin of the realm of Great Britain and Ireland current in New Zealand, and includes the notes of any bank within the meaning of “The Banking Act, 1908” :

“Wages” includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any service, work, or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain :

“Worker” means any person in any manner employed in work of any kind or in manual labour, whether under or not under the age of twenty-one years.

Wages to be payable in money. No deduction for interest.

29. (1.) In every contract made with any worker the wages of such worker shall be made payable in money only, and not otherwise, and if by agreement, custom, or otherwise a worker is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

Contracts to be void if in contravention of this section.

(2.) If in any such contract the whole or any part of such wages is made payable in any manner other than in money, or provision is made for any deduction or charge as aforesaid in respect of any advance of the whole or a part of the wages of the worker, such contract shall be and is hereby declared illegal and void so far as any promise or consideration made or given by or arising out of the same relates to the payment of such wages otherwise than in money, or as to making any

such deduction or charge as aforesaid : and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

No contract to stipulate as to mode of spending wages.

30. (1.) No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any worker any terms as to the place or the manner in which, or the person with whom, any wages or portion of wages paid to the worker is to be expended.

(2.) No employer shall, by himself or his agent, dismiss any worker from his employment for or on account of the place at which, or the manner in which, or the person with whom any wages or portion of wages paid by the employer to such worker is expended or is not expended.

All wages to be paid in money.

31. The entire amount of the wages earned by or payable to any worker shall be actually paid to such worker in money, and not otherwise, at intervals of not more than one month if demanded ; and every payment made to any such worker by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, is hereby declared illegal and void ; and every worker shall be entitled to recover from his employer in any Court of competent jurisdiction the whole or so much of the wages earned by such worker as has not been actually paid to him by his employer in money.

No set-off to be allowed for goods supplied to worker by employer.

32. In any action brought or commenced by any worker against his employer for the recovery of any sum of money due to such worker as his wages—

(a.) The defendant shall not be allowed to make any set-off or counterclaim, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or received by the plaintiff as or on account of his wages, or by reason or in respect of any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer has any share or interest :

(b.) Nor shall the defendant be entitled to any set-off or counterclaim in respect of any goods supplied to the plaintiff by any person under any order or direction of the plaintiff or his agent, or the defendant or his agent.

Employer not to have action for goods supplied to worker.

33. (1.) No employer shall have or be entitled to maintain any action in any Court against any worker for or in respect of any goods

sold, delivered, or supplied to any such worker by any such employer whilst in his employment as or on account of his wages, or for or in respect of any goods sold, delivered, or supplied to such worker at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer has any share or interest.

(2.) Nor shall the employer of a worker, or any agent of such employer, or any person supplying goods to the worker under any order or direction of such employer or agent, be entitled to maintain any action in any Court for or in respect of any goods supplied by such employer or agent, or under such order or direction, as the case may be.

(3.) Provided that nothing in this section shall apply to any exceptions expressly provided for by this Part of this Act.

No deduction from wages for sharpening or repairing tools.

34. No deduction shall be made from a worker's wages for sharpening or repairing tools, except by agreement.

No money to be received or deducted from wages for accident insurance policies.

35. (1.) It shall not be lawful for any employer to directly or indirectly take or receive any money from any worker in his employ, whether by way of deduction from wages or otherwise howsoever, in respect of any policy of insurance against injury by accident.

(2.) It shall not be lawful for any insurance company, or any person on its behalf, to directly or indirectly take or receive from any worker any money in respect of any policy of insurance which in any way, directly or indirectly, purports to both indemnify the employer against any of his liability under the Employers' Liability Acts and also to pay compensation in respect of injury to the worker by accident.

(3.) The foregoing provisions of this section shall not apply to any voluntary arrangement arrived at between an employer and his worker for insurance against accidents happening to such worker outside the time in which he is engaged working for such employer, if such arrangement is approved of by a Magistrate after hearing evidence; but in no case shall the premium payable by the worker exceed one-third of the total amount payable.

Moneys so received or deducted may be recovered.

(4.) All money so taken or received as aforesaid from any worker in breach of this section may by him be recovered back at any time not exceeding six months thereafter, with full costs of suit, from the employer, company, or person who took or received it.

(5.) In this section, if not inconsistent with the context,—

“Employer” means any person, company, or local authority employing any worker for hire or reward to perform any kind of skilled or unskilled manual labour, and includes “employer” as defined by section twenty-eight hereof:

“ Employers’ Liability Acts ” means “ The Employers’ Liability Act, 1908,” and includes any other Act now or hereafter in operation under which the employer is liable to pay compensation or damages in respect of personal injury to the worker by accident arising out of and in the course of the worker’s employment :

“ Worker ” means any person of any age of either sex employed for hire or reward to perform any kind of skilled or unskilled manual labour, and includes “ worker ” as defined by section twenty-eight hereof.

Payment of wages may be made by cheque.

36. Nothing herein shall be construed to prevent or render invalid any contract for the payment, or any actual payment, to any worker of the whole or any part of his wages in a cheque, draft, or order in writing for the payment of money to the bearer on demand, drawn on any person, company, or association carrying on the business of a banker in New Zealand, either generally or with any particular persons or class of persons only, if such worker freely consents to receive such cheque, draft, or order ; but all payments so made with such consent shall, for the purposes of this Part of this Act, be as valid as if made in money :

Provided that no such cheque shall be crossed :

Remedies of worker.

Provided also that if wages are paid to any worker by a cheque, draft, or order in writing as aforesaid, and the same is dishonoured, such worker shall be entitled to recover from his employer such reasonable damages as he has sustained in consequence of such dishonour, and such damages shall be recoverable in any Court of competent jurisdiction in addition to any wages due or payable to such worker.

Service of legal process.

37. (1.) Service of any legal process for or incidental to the recovery of wages, or damages for non-payment thereof, or on any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving such process with or delivering the same to the manager or overseer for the time being of the works at or in respect of which such wages have been earned.

(2.) This section shall not affect any other mode of service allowed by law.

Breaches of this Part of Act.

38. If the employer of any worker, by himself or the agency of any other person, directly or indirectly enters into any contract or makes any payment by this Part of this Act declared to be illegal and void wholly or in part, or if the employer or his agent contravenes

or fails to comply with any of the foregoing provisions of this Part of this Act, such employer or agent, as the case may be, shall be deemed guilty of an offence, and be liable to the following fines :—

- (a.) For the first offence, a fine not exceeding ten pounds ;
- (b.) For the second offence, a fine not exceeding twenty-five pounds ; and
- (c.) For a third or any subsequent offence, a fine not exceeding fifty pounds.

Consent of worker no defence.

39. In any proceedings or suit against any employer, company, or person—

- (a.) For the breach of any provision of this Part of this Act ; or
- (b.) For the recovery by the worker of money alleged to have been taken or received from him in breach of any provision of this Part of this Act,—

the fact that the worker consented thereto shall not avail in any way as an answer or defence.

When agent of employer liable.

40. (1.) Where an offence for which an employer is by virtue of this Part of this Act liable to a fine has, in fact, been committed by some agent of the employer or other person, such agent or other person shall be liable to the same fine as if he were the employer.

Employer exempt from liability on conviction of actual offender.

(2.) Where an employer is charged with an offence against this Part of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Part of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer shall be exempt from liability.

Fines recoverable summarily.

41. All fines under this Part of this Act may be recovered in a summary way before a Magistrate or two or more Justices, in accordance with “ The Justices of the Peace Act, 1908.”

Provisions as to second and third offences.

42. (1.) No person shall be punished as for a second offence under this Part of this Act of a like nature with the first offence under this Part of this Act unless ten days at the least have intervened between the conviction of such person for the first and the conviction of such



person for the second offence ; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate fine, as though the same were a first offence.

(2.) And no person shall be punished as for a third offence under this Part of this Act of a like nature with the second offence under this Part of this Act unless ten days at the least have intervened between the conviction of such person for the second and the conviction of such person for the third offence ; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate fine, as though the same were a second offence.

(3.) For every offence under this Part of this Act subsequent to a third offence the offender shall be liable to a fine not exceeding fifty pounds.

If no evidence of a previous conviction, offence deemed to be separate.

43. (1.) If the person preferring any information under this Part of this Act is not able, or does not see fit, to produce evidence of any previous conviction or convictions, any such offender shall be punished for each separate offence committed by him against the provisions of this Part of this Act by an equal number of distinct and separate fines, as though each of such offences were a first or second offence, as the case may be.

Limit of time for prosecution.

(2.) No person shall be proceeded against or punished as for a second or as for a third or subsequent offence after more than six months from the commission of the next preceding offence.

Evidence of a previous conviction.

44. (1.) It shall be sufficient evidence of a previous conviction under this Part of this Act, whether summarily or on indictment, if a certificate signed by the proper officer having the custody of the record of such previous conviction, or of the proceedings of the Court in which such conviction was obtained, is produced to any Court inquiring of a second or third offence, or in any case where it is necessary to prove such previous conviction, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction was had, and the date of such conviction.

(2.) It shall not in any case be necessary to prove the signature or official status of the officer signing or giving such certificate, or that the said conviction was not quashed, or reversed on appeal, or otherwise howsoever.

Partner not to be liable in certain cases.

45. No person shall be liable to be convicted of any offence against this Part of this Act committed by his copartner in business, and without his knowledge, privity, or consent ; but it shall be lawful, when

any fine or sum for wages, or any other sum, is ordered to be paid under the authority of this Part of this Act, and the person ordered to pay the same neglects or refuses to do so, to levy the same by distress and sale of any goods or chattels belonging to any copartnership concern or business in the carrying-on of which such wages became due or such offence was committed.

Judgment and execution against partners.

46. In all proceedings to recover any sum due for wages it shall be lawful in all cases of copartnership for the Court, at the hearing of any action for the non-payment thereof, to give judgment against any one or more copartners for the payment of the sum appearing to be due : and in such case the service of a copy of the summons or other process upon one or more of such copartners shall be deemed to be service upon all : and any execution or other process may be had and enforced upon any such judgment in accordance with the ordinary law and practice affecting such Court.

This Part of Act not to apply in certain cases.

47. This Part of this Act shall not extend or apply in the following cases :—

- (a.) Where an employer or his agent supplies or contracts to supply to any worker any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be by such worker employed in his trade, labour, or occupation :
- (b.) Where an employer or his agent supplies or contracts to supply any worker who has engaged with him to fell bush, or to clear land of bush, with the necessary outfit and means of support, and materials or tools requisite for commencing his engagement, to any amount not exceeding in any case the amount of two months' wages to be earned by such worker in such engagement :
- (c.) Where such employer or his agent supplies or contracts to supply to any worker any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such worker in his trade, labour or occupation :
- (d.) Where such employer or his agent demises to any worker the whole or any part of any tenement at any rent to be therein reserved, or allows such worker the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services :
- (e.) Where such employer supplies or contracts to supply to any such worker any victuals dressed or prepared under the roof of such employer, or any drink not being of an intoxicating nature, and there consumed by such worker :

- (f.) Nor to prevent such employer from making or contracting to make any deduction or stoppage from the wages of any such worker for or in respect of any such rent, medicine, medical attendance, fuel, materials, tools, implements, hay, corn, provender, victuals, or drink as aforesaid :
- (g.) Nor shall prevent any employer from advancing to any worker any money to be by him contributed to any friendly society, life insurance company or association, savings-bank, or other society or association whatever, or from advancing any money for the relief of such worker or his wife or family in sickness, or from advancing any money to any member of the worker's family by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such worker :
- (h.) To seamen or to persons employed in agricultural or pastoral pursuits :

Provided that no deduction or stoppage shall exceed the real and true value of any fuel, tools, implements, hay, corn, provender, victuals, drink, or materials :

Provided also that the exemptions in this section do not apply to any contractor or subcontractor for any work executed under the Government, or any local authority, or to any contractor or subcontractor for any railway or road-making work, except in respect of money paid or advanced for medicine or medical attendance.

### PART III.

#### CONTRACTORS' AND WORKERS' LIENS.

##### Interpretation.

48. In this Part of this Act, if not inconsistent with the context,—
- “Contract price” includes money payable for the performance of any work under any contract, express or implied, and whether the price was fixed by express agreement or not :
- “Contractor,” as regards an employer, means a person who contracts directly with the employer for the performance of work for him ; as regards a subcontractor, it means a person with whom the subcontractor contracts to perform work ; and “subcontractor” means a person who contracts with a contractor, or with another subcontractor, for the performance of work for such contractor or subcontractor :
- “Contractor” also includes any person, being the owner or lessee of any threshing-machine, who contracts with any other person to thresh any grain :
- “Court” means the Court in which any proceeding may be taken under this Part of this Act : and includes the Judge of any such Court, and a Magistrate in any matter in which a Magistrate has jurisdiction under this Part of this Act :

“Employer” means any person by whom a contract is made with another person for the performance of work, or at whose request, or on whose credit, or on whose behalf, with his privity or consent, work is done; and includes also all persons claiming under him whose rights are acquired after the work in question is commenced:

“Lien” or “charge” means a lien or charge under this Part of this Act:

“Owner” means the person to whom the land or chattel upon or in respect of which the work is to be done belongs, and, in the case of land, includes a person having a limited estate or interest in the land:

“Work” means any work or labour, whether skilled or unskilled, executed or done, or commenced to be executed or done, by any person of any occupation upon or in connection with—

(a.) The construction, decoration, alteration, or repair of any building or other structure upon land; or

(b.) The development or working of any mine, quarry, sandpit, drain, embankment, or other excavation in or upon any land; or

(c.) The placing, fixing, or erection of any materials, or of any plant or machinery, used or intended to be used for any of the purposes aforesaid; or

(d.) The alteration or improvement of any chattel; or

(e.) The threshing of grain (including in the term “grain” all cereals, pulse, and seeds of every kind):

and includes the supply of material used or brought on the premises to be used in connection with the work:

“Worker” means a person employed in doing work, whether he is employed by the owner of the property upon which the work is to be done, or by a contractor or subcontractor, and whether his remuneration is to be according to time or by piecework, or at a fixed price or otherwise.

### *Declaration of Rights of Lien and Charge.*

Lien upon land and chattels for labour.

49. A contractor, subcontractor, or worker who does or procures to be done any work upon or in connection with any land, or any building or other structure or permanent improvement upon land, or does or procures to be done any work upon or in connection with any chattel, is entitled to a lien upon the whole interest of the employer in that land or chattel for the contract price of the work, but subject to the conditions and limitations following, that is to say:—

(a.) The lien of a contractor does not exceed the amount for the time being due to him under the contract between him and the employer.

- (b.) The lien of a subcontractor does not exceed the amount for the time being due to him under the contract between him and the contractor or subcontractor under whom he works.
- (c.) The lien of a worker, other than a contractor or subcontractor, does not exceed the amount for the time being payable to him for his work, whether he was employed by the employer or by a contractor or subcontractor.
- (d.) The total liability of the employer in respect of all such liens together does not, except in the case of fraud, exceed the contract price payable under the contract or contracts between him and the contractor or workers with whom he directly contracts.
- (e.) The lien of a worker in respect of one contract does not exceed thirty days' earnings.

Owner standing by.

50. The estate or interest of the owner who is not himself the employer in the land or chattel on or in respect of which the work is to be done shall be subject to lien or liability as if he were himself the employer, to the extent to which such owner has consented in writing.

Charge in favour of subcontractors.

51. A subcontractor is entitled to a charge for the money due to him under the subcontract on any money payable to his contractor, or to any superior contractor, by the employer or by any superior contractor, in respect of the work done or to be done under the subcontract.

Charge in favour of workers.

52. A worker is entitled to a charge for the money due to him for his work on any money payable to the contractor or subcontractor by whom he is employed, or payable to any superior contractor in respect of the work done or to be done under the contract of the subcontractor by whom he is employed.

Provision in case of mortgaged land.

53. (1.) Where land on which a lien attaches is mortgaged under a mortgage duly registered before the registration of the lien against such land under the contract in respect of which the lien arises, the mortgage shall, unless the mortgagee is a party to the contract, have priority over the lien; but if the mortgagee is a party to the contract, the lien shall have priority.

(2.) All moneys which a mortgagee pays in respect of a lien shall be added to and form part of the principal money mentioned in his mortgage, and shall bear interest accordingly.

Priority of liens.

54. The several liens and charges created by this Part of this Act shall as between themselves have priority in the order following, that is to say:—

- (a.) The liens and charges of workers for wages ;
- (b.) The liens and charges of subcontractors ;
- (c.) The liens of contractors :

so that the lien or charge of a subcontractor shall have priority over the lien or charge of the contractor with whom his contract is made.

*Lien or Charge, how established.*

Notice of claim of lien.

55. (1.) A person who intends to claim a lien on any land or chattel shall, before the completion of the work in respect of which it is claimed, or within thirty days after the completion, give notice to the owner, if liable, specifying the amount and particulars of his claim, and stating that he requires the owner to take the necessary steps to see that it is paid or secured to the claimant.

(2.) He shall also give notice of having made such claim to the person who, but for the claim, would be entitled to receive from the person to whom the notice of claim is given the money in respect of which it is given.

(3.) A notice of claim of lien may be given although the work is not completed, or the time for payment of the money in respect whereof the lien is claimed has not arrived.

(4.) If no such notice is given, the lien shall not attach.

Notice of claim of charge.

56. (1.) A subcontractor or worker who intends to claim a charge on money payable by the employer or by a superior contractor to his contractor or to a superior contractor shall, before the completion of the work in respect of which it is claimed, or within thirty days after the completion, give notice to the employer or superior contractor, as the case may be, specifying the amount and particulars of his claim, and stating that he requires the employer or superior contractor to take the necessary steps to see that it is paid or secured to the claimant.

(2.) He shall also give notice of having made such claim to the person who, but for the claim, would be entitled to receive from the person to whom the notice of claim is given the money in respect of which it is given.

(3.) A notice of claim of charge may be given although the work is not completed, or the time for payment of the money in respect whereof the charge is claimed has not arrived.

(4.) If no such notice is given, the charge shall not attach.

## Form of notice of lien or charge.

57. A notice of claim of lien or charge may be in one of the forms in the Third Schedule hereto or to the like effect; but its validity shall not be affected by any inaccuracy or want of form, if the property or money sought to be charged, and the amount of the claim, can be ascertained with reasonable certainty from the notice.

*Duty and Obligations of Employer or Superior Contractor.*

## Consequences of claim of lien or charge.

58. (1.) On receipt of notice of a claim of lien or charge it shall be the duty of the person by whom it is received to retain in his hands, until the time prescribed by this Part of this Act for taking proceedings for enforcing the lien or charge has expired, a sufficient part of the money payable by him under his contract to satisfy the claim of the claimant.

(2.) In default of such retention he shall, subject to the provisions herein contained, be personally liable to pay to the claimant the amount of his claim, not exceeding the amount he should have retained, in the same manner and to the same extent as if the claimant had been employed by him personally.

Payments up to three-fourths before notice given to operate as discharge.

59. (1.) All payments up to three-fourths of the contract price to be paid for the work, as defined by section forty-eight hereof, made in good faith by the employer or owner to the contractor, or by the contractor to the subcontractor, or by one subcontractor to another subcontractor, before notice in writing by the person claiming the lien or charge has been given to such employer or owner, contractor, or subcontractor, as the case may be, of the claim of such person, shall operate as a discharge *pro tanto* of the lien or charge; but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien or charge existing or arising under this Part of this Act.

One-fourth to be retained for thirty-one days.

(2.) An employer or contractor shall retain in his hands one-fourth part of the money payable under the contract to the contractor or subcontractor until the expiration of thirty-one days after the completion of the work.

Contractor to give notice to employer of all subcontracts.

60. (1.) Every contractor who sublets any part of the work to be done by him under any contract shall immediately upon entering into any subcontract give written notice to the employer, stating the name of the subcontractor, the work to be done by him, the amount of the subcontract, and the mode of payment.

Fine for non-compliance.

(2.) Every contractor who fails to comply with this provision is liable to a fine not exceeding fifty pounds, to be recovered in a summary way under "The Justices of the Peace Act, 1908."

(3.) Nothing herein shall be deemed to restrict any power or privilege conferred by this Part of this Act on a subcontractor.

*Enforcement of Lien or Charge.*

If notice not followed by payment, proceedings may be taken to enforce lien.

61. Where notice has been given of an intention to claim a lien or charge, and the person to whom it is given does not pay, or make satisfactory arrangements for paying, to the claimant the amount claimed, the claimant may recover the amount of the lien or charge from the owner, if liable, of the land or chattel, or the person by whom the money subject to the charge is payable.

Summary procedure.

62. Claims under this Part of this Act may be enforced, and questions and disputes between persons claiming a lien or charge and any other person liable, or alleged to be liable, to pay any amount claimed, or otherwise interested in any property or money which may be affected by a lien or charge, or claim of lien or charge, and also between persons or classes of persons claiming a lien or charge, may be settled on application in a summary manner to any Court having jurisdiction in the matter as declared by this Part of this Act.

Jurisdiction of Magistrate's Court.

63. (1.) Claims of lien or charge by workers for wages, and all other claims of lien or charge, and all other matters arising under this Part of this Act, if the amount in question does not exceed the jurisdiction of the Magistrate's Court in which the claim is brought, may be heard and determined and enforced in such Court.

District Court.

(2.) All such claims of lien or charge or other matters, if the amount or value in question does not exceed the sum of two hundred pounds, may be heard and determined and enforced by a District Court.

Supreme Court.

(3.) The Supreme Court shall have jurisdiction in all matters arising under this Part of this Act.

Appeal.

64. (1.) An appeal may be made from the decision of a Magistrate's Court to a District Court or the Supreme Court, and from a District Court to the Supreme Court, in the same manner and subject



to the same conditions and restrictions respectively as in the case of other appeals in civil proceedings from a Magistrate's Court and from a District Court respectively.

(2.) A special case may be stated by a Magistrate or Justices of the Peace when sitting as a Magistrate's Court, for the opinion of the Supreme Court on a question of law, in the same manner as a special case may be stated by Justices under "The Justices of the Peace Act, 1908."

#### Costs.

65. Subject to the provisions of this Part of this Act, costs of any party or parties in any proceeding may be allowed in the discretion of the Court, and may be ordered to be paid by any other party or parties, or out of any fund or property under the control of the Court.

#### Form of procedure.

66. (1.) Proceedings in respect of a lien or charge shall be commenced by summons, which may be in any form prescribed by rules of Court or other practice of the Court.

(2.) Such proceedings must be commenced within sixty days after the completion of the work in respect of which the lien or charge is claimed. If proceedings are not taken within that time, the lien or charge shall be extinguished.

(3.) A statement of the claim shall be filed by the plaintiff with the proper officer of the Court, who shall thereupon issue the summons, which shall be directed to the person from whom payment is claimed, and also to every person who, if the claim were not made, would be entitled to receive the money claimed by the plaintiff.

(4.) If the relief sought is the enforcement of a lien or charge against land or chattels, or includes such relief, the claim must be verified by affidavit, filed with it.

(5.) A copy of the claim, and of the affidavit verifying it (if any) shall be served with the summons.

#### Form of claim.

67. (1.) The claim must state—

(a.) The name and residence of the claimant, and of the person for whom or on whose credit the work was done, and the period within which it was done, and, in the case of a claim of lien, the name of the owner of the property to be charged :

(b.) The nature of the work done :

(c.) The sum claimed to be due :

(d.) The date of expiry of the period of credit (if any) agreed to by the claimant for payment for his work, where credit has been given :

and, in the case of a claim of lien, must describe the property sought to be charged.

(2.) The claim may be in one of the forms given in the Third Schedule hereto, and when it is required to be verified shall be verified by the affidavit of the claimant, or some other person having full knowledge of the matters required to be verified, and the affidavit of an agent shall state that he has such knowledge.

Service of summons.

68. (1.) The summons shall be served in such manner and be returnable on such date as the rules or practice of the Court prescribes.

(2.) In the absence of and until the making of rules on the subject by any Court, the practice of the Court in matters relating to summary applications to the Court shall, as nearly as possible, be followed.

(3.) Unless and until otherwise provided by rules of Court,—

(a.) Service of a summons shall be sufficient if it is duly made three clear days before the date appointed for the hearing of the summons :

(b.) Service of a summons may be made by delivering a copy of it, together with a copy of the claim and affidavit of verification (if any), to a defendant personally or to his authorised agent :

(c.) The Court may proceed to hear and decide the claim or dispute in the absence of a defendant, on proof of personal service on the defendant or his agent, or on proof that all reasonable efforts have been made to effect personal service on the defendant or his agent, and that copies of the summons, claim, and affidavit (if any) have been affixed in some conspicuous place upon the work in respect of which the claim or dispute arises.

Payment into Court by person liable.

69. If there is no dispute as to the amount which an owner, employer, contractor, or subcontractor is liable to pay, but the question or dispute is limited to determining who are the persons entitled to receive payment of it, such owner, employer, contractor, or subcontractor may, by payment into Court of the amount claimed, relieve himself and his property of all further liability in respect of such amount, and of any costs of the proceedings.

In disputed cases owner may by payment into Court release property from lien.

70. If the fact or extent of the liability of an owner or employer is in dispute, he may, by payment into Court of the amount claimed, or on giving security to the satisfaction of the Court, relieve the land or property on which a lien is claimed from liability to the lien.

Protection of property.

71. (1.) A Court, or a Magistrate in the case of proceedings taken in a Magistrate's Court, may, on the application of a plaintiff *ex parte*,

make such interim orders for the custody or preservation of any property concerned as may be necessary for the protection of the interests of any party or parties interested, pending the decision of the Court on the claim or dispute.

(2.) In addition to any punishment or penalty which a Court may be authorised to impose for the breach or contempt of its decrees or orders, any person who, after notice of any such order, disobeys it or acts contrary to it, is liable, in the discretion of the Court, to a fine not exceeding fifty pounds : and such fine may be enforced by the Court, on application by the plaintiff or any other person interested in or affected by the claim in dispute, in the like manner and by the like process as a judgment of such Court could be enforced under the ordinary procedure applicable.

Several claims for wages may be joined.

72. (1.) A claim for wages may include the claims of any number of workers whose primary claim is against the same person, and who may choose to join in it.

(2.) In any such case, if a lien is claimed, each claimant must verify his claim by affidavit, substantially in accordance with the form numbered (5) in the Third Schedule hereto.

Effect of payment under order of Court.

73. All payments made by an employer, contractor, or subcontractor to any person under and in compliance with an order of a Court having jurisdiction under this Part of this Act shall be a sufficient discharge to the person making the payment of his liability to pay the money to the person who, but for the order, would have been entitled to receive the money from him.

### *Remedies against Land.*

Registration of lien.

74. Where a person entitled to a lien on land intends to have recourse to the land, he must register his lien against the land in the following manner :—

Land under Land Transfer Act.

- (a.) (i.) Where the land is subject to "The Land Transfer Act, 1908," a copy of the statement of claim of lien and affidavit, certified by the proper officer of the Court in which the original has been filed, shall be lodged in the office of the District Land Registrar of the district in which the land is situated, who shall thereupon register the claim of lien on the title to the land in question in the manner in which caveats are required to be registered.

## Notice.

(ii.) Notice of the claim of lien shall be given by the Registrar, by letter through the post-office, to the registered proprietor, and to every mortgagee or incumbrancee of the land.

(iii.) The registration shall be deemed to have been made at the time of the day on which the claim of lien is lodged in the office.

## Land not under Land Transfer Act.

(b.) Where the title to the land is not subject to "The Land Transfer Act, 1908," a claim of lien may be registered in the same manner as any deed or instrument affecting such land may by law be registered.

## Registration fee.

75. A claim of lien on land shall not be liable to any stamp duty. A fee of one shilling and no more shall be payable on the registration of a claim of lien.

## When claim to be registered.

76. (1.) A claim of lien on land must be registered not later than thirty days after the completion of the work.

(2.) If the claim of lien is not registered within that time the lien shall be extinguished.

(3.) Until registration the land shall not be affected by lien or claim of lien.

## Death of lien-holder.

77. In the event of the death of a person entitled to a lien, his right of lien shall pass to his personal representatives.

## Discharge of liens.

78. (1.) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorised in writing, acknowledging payment of the amount claimed, and verified by affidavit and filed.

(2.) The receipt shall be numbered and entered or recorded by the District Land Registrar or Registrar of Deeds in the same manner as other instruments. The fee shall be the same as for registering a claim of lien.

## Cost of registering discharge.

79. The registration of discharges of liens shall be at the cost of the person making the claim of lien, unless the Court otherwise orders.

## Action by lien-holders for joint benefit.

80. (1.) Any number of persons each of whom is entitled to a lien of the same order of priority may join in one proceeding to enforce their liens.

(2.) Any action brought by any person to enforce a lien shall be taken to be brought on behalf also of every person entitled to a lien of the same order of priority who, before the date appointed for hearing the claim or any adjournment of the hearing, files in the proper office of the Court from which the summons issued a duly verified statement of his claim of lien, indorsed with a request that he be added as a party to the action.

Consolidation of proceedings.

81. (1.) Where separate actions are brought against the same person or against several persons in respect of work done under the same contract between the employer and the principal contractor, the Court may order them to be consolidated, on such terms as it deems just.

(2.) Where proceedings have been commenced in more than one Court, and are still pending in respect of separate claims of lien against the same person for work done under the same contract made by him as employer, such proceedings may be remitted to the Court in which proceedings were first instituted, if the amounts claimed in such remitted proceedings are within the limits prescribed by this Part of this Act, or otherwise within the jurisdiction of such last-mentioned Court, and in any other case may be remitted to some Court having jurisdiction to deal with the whole matter in question in such proceedings.

Prosecution of claim when plaintiff dies, &c.

82. In the event of the death of the plaintiff, or his refusal or neglect to proceed, any other claimant of a lien of the same order of priority, who has filed his claim in the manner and within the time prescribed by this Part of this Act, may be allowed by the Court to prosecute the action on such terms as it deems just and reasonable.

Time when sale may be made.

83. If judgment is recovered against an employer or owner on a claim of lien, the Court may direct a sale of the land or chattel to take place at any time after one month from the recovery of the judgment, and may direct such public notice, not being less than fourteen days, of such intended sale as the Court deems necessary.

Court may direct sale and removal of chattel.

84. Where the lien is on a chattel which is affixed to land, the Court may direct the sale of the chattel, and may authorise its removal from the land to which it is affixed.

Costs.

85. Where judgment is given for enforcing a lien, the Court may add to the judgment the costs of and incidental to registering the lien, as well as the costs of the proceedings.

Registry may be annulled.

86. The Court may direct the vacation of the registration of a lien, on payment into Court of the amounts claimed in or under any proceedings instituted upon the lien, or on such other terms as the Court deems just.

Execution upon a sale ordered by District Court or Magistrate's Court.

87. Where a sale of any estate or interest in land is directed under this Part of this Act under a decision of a District Court or Magistrate's Court, the sale shall be made by the Sheriff in the Supreme Court district where the land is situated on delivery to him of a copy of such decision, duly certified by the Clerk of the District Court or the Magistrate's Court, as the case may be, which shall be a sufficient warrant and authority to such Sheriff to effect and complete the sale in the same manner and with the same powers and authorities as he is required or authorised to effect a sale of land under a writ of sale pursuant to a judgment of the Supreme Court, including the execution of any instrument necessary to convey or transfer to a purchaser the estate or interest sold.

Person prejudicially affected may apply to Court.

88. Any person alleging that he is prejudicially affected by a claim of lien or charge, or by registration under this Part of this Act, may at any time apply to the Court to have such claim or registration cancelled or the effect thereof modified, and such order may be made as may be just.

Vexatious notice of claim.

89. If any person vexatiously or without any reasonable grounds gives notice of claim of lien or charge, or registers any lien, such person shall be liable to pay to any person prejudicially affected thereby such compensation as the Court, on a summary application, fixes and determines.

Costs.

90. In all proceedings under this Part of this Act the Court shall have power to award costs to any of the parties to such proceedings.

### *General Provisions.*

Special provision for enforcing lien on personal chattels.

91. (1.) Where a worker has done work upon a chattel in his possession by way of alteration or improvement, or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien on such chattel for the amount or value of the work done, then, in case the amount to which he is entitled remains unpaid for two months after it ought to have been paid, he may, in addition to all other remedies provided by law, cause the chattel in respect of which the lien exists to be sold by auction.

(2.) One week's notice of the sale shall be given by advertisement in a newspaper published in the locality in which the work was done, or, if there is no newspaper published in such locality, then in a newspaper circulating in the neighbourhood, stating the name of the person indebted, the amount of the debt, a description of the chattel to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence (if any) of the owner, if he is a resident of the locality.

(3.) The proceeds of the sale shall be applied in payment of the amount due under the lien and the costs of advertising and sale, and any surplus shall be paid over to the Clerk of the Magistrate's Court at or nearest to the place of sale, to be held by him for the benefit of the person entitled to it.

Affidavits to be sworn without fee.

92. Any affidavit required to be made under the provisions of this Part of this Act may be sworn before a Justice, or before any other person authorised to take affidavits in the Supreme Court, and no fee shall be payable or taken for administering the oath.

Saving of other remedies.

93. Except to the extent otherwise mentioned in this Part of this Act, nothing in this Part shall be construed to impair or affect any right or liability accruing or accrued under the provisions of Part I of this Act, or the right of any person to whom a debt is due for work done or materials furnished, to maintain a personal action to recover the debt against any person liable for it: and the judgment (if any) obtained by the plaintiff in any such action shall not impair or otherwise affect any lien or other right to which he is entitled under this Part of this Act.

Certain lands not affected.

94. Nothing in this Part of this Act shall be deemed to create or give to any person any right or remedy against any land vested in the Crown, or in any body corporate, Board, or local authority procuring or undertaking the performance of any work for any public purpose.

*Special Provision relating to Owners of Threshing-machines.*

Lience responsible to contractor for cost of threshing grain, if lien enforced.

95. Where any crop which is subject to a valid security, duly registered under "The Chattels Transfer Act, 1908," has been threshed by a contractor, and the amount of the cost of the work of threshing, or any part thereof, remains unpaid at the time of the realisation of such security by the grantee, then, if the contractor gives notice in writing to the grantee of his claim within seven days after such realisation, the amount of the reasonable cost of the threshing of the crop so realised by the grantee shall be a charge on the proceeds of the realisation of such crop.

## SCHEDULES.

## FIRST SCHEDULE.

## ENACTMENTS CONSOLIDATED.

- 1891, No. 11.—“ The Truck Act, 1891.”  
 1892, No. 25.—“ The Contractors’ and Workmen’s Lien Act, 1892.”  
 1893, No. 52.—“ The Workmen’s Wages Act, 1893.”  
 1895, No. 15.—“ The Threshing-machine Owners’ Lien Act, 1895.”  
 1895, No. 22.—“ The Wages Attachment Act, 1895.”  
 1899, No. 12.—“ The Wages Protection Act, 1899.”

## SECOND SCHEDULE.

## (1.) NOTICE OF ATTACHMENT.

To [*Name of employer*].

PURSUANT to Part I of “ The Wages Protection and Contractors’ Liens Act, 1908,” take notice that [*Name of contractor*], being indebted to me [*or us*] in the sum of £ [or in the sums set opposite our signatures] for wages, you are hereby required to retain in your hands all moneys due or accruing due from you to the said [*Name of contractor*].

Dated this                      day of                      , 19                      .

A. B. [*Worker*]                      ..                      £ [*Amount owing*].

C. D.                      ..                      £                      ..

E. F.                      ..                      £                      ..

## (2.) ORDER FOR PAYMENT OF AMOUNT DUE TO WORKER.

In the                      Court,                      District.

Between A. B., plaintiff, and C. D., defendant.

To [*Name of employer*], of                      .

THE above-named plaintiff having on the                      day of                      , 19                      , obtained a judgment in this Court against the above-named defendant for the sum of £                      for wages, you are hereby ordered, under Part I of “ The Wages Protection and Contractors’ Liens Act, 1908,” to pay to the plaintiff the aforesaid amount out of any moneys now due or from time to time becoming due from you to the defendant.

Dated this                      day of                      , 19                      .

[Seal of Court.]

Clerk of Court.

## (3.) RECEIPT TO BE GIVEN BY WORKER ON PAYMENT OF HIS CLAIM.

I HEREBY acknowledge that the sum of £                      , due to me by [*Name of contractor*], for which I obtained judgment in the                      Court at                      on the                      day of                      , 19                      , under Part I of “ The Wages Protection and Contractors’ Liens Act, 1908,” has been fully paid by [*Name of person paying—i.e., contractor or employer*].

Dated this                      day of                      , 19                      .

A. B. [*Worker*].



## THIRD SCHEDULE.

## (1.) NOTICE OF INTENTION TO CLAIM LIEN.

To Mr. C. D., of .

I, A. B. [*Name of claimant*], of [*Here state residence and occupation of claimant*], hereby give you notice that I claim, under Part III of "The Wages Protection and Contractors' Liens Act, 1908," a lien on your land [*or steam-engine, or as the case may be*] at [*Here describe the land or chattel in such a manner that it can be identified*], in respect of the following work done upon or in connection with the land [*or as the case may be*], that is to say: [*Here give a short description of the nature of the work done, and for which the lien is claimed*], which work was [*or is to be*] done by me while in the employment of [*or under a subcontract with*] [*Here state the name and residence and occupation of the person for whom or on whose credit the work is done*], on or before the                      day of                      , 19                      .

The amount which I claim as due [*or to become due*] is £                      , and I require you to take the necessary steps to see that this amount is paid or secured to me.

Dated at                      , this                      day of                      , 19                      .

[*Signature of claimant.*]

## (2.) NOTICE OF INTENTION TO CLAIM CHARGE.

To Mr. C. D.

I, A. B. [*Name of claimant*], of [*Here state residence and occupation of claimant*], hereby give you notice that I claim, under Part III of "The Wages Protection and Contractors' Liens Act, 1908," a charge on the money which is now or will be payable by you to [*Here state the name and residence of the contractor or subcontractor to whom the money sought to be charged is payable*] in respect of the following work done by me in respect of your contract with the said E. F., that is to say: [*Here give a short description of the nature of the work done and for which the charge is claimed*], which work was [*or is to be*] done by me while in the employment of the said E. F. [*or of G. H., a subcontractor under the said E. F.*], on or before the                      day of                      , 19                      .

The amount which I claim as due [*or to become due*] is £                      , and I require you to take the necessary steps to see that this amount is paid or secured to me.

Dated at                      , this                      day of                      , 19                      .

[*Signature of claimant.*]

## (3.) STATEMENT OF CLAIM TO BE FILED ON COMMENCING PROCEEDINGS.

A. B., of [*State residence and occupation of claimant*], claims, under Part III of "The Wages Protection and Contractors' Liens Act, 1908," to recover from [*Here state the name, residence, and occupation of the persons against whom the claim is made*], the sum of £                      , for                      days' wages as a bricklayer [*or as the case may be (State concisely the nature of the work or service in respect of which the claim is made)*].

The work was done for [*State the name, residence, and occupation of the person for whom or on whose credit the work was done*], between the                      day of                      and the                      day of                      last.

The credit agreed to by the claimant expired on                      .

If a lien is claimed, add—

The claimant claims a lien for the above sum on the land of the said C. D. at [*Here give a description of the property to be charged sufficient for the purpose of registration*] or on the steam-engine of the said C. D. now at (*Here give such a description of the chattel to be charged as will identify it*).

Dated at                      , this                      day of                      , 19                      .

[*Signature of claimant.*]

## (4.) STATEMENT OF CLAIM FOR WAGES BY SEVERAL CLAIMANTS.

THE following persons claim, under Part III of "The Wages Protection and Contractors' Liens Act, 1908," to recover from [*Here state the name, residence, and occupation of the person against whom the claims are made*] the following sums for wages [*Here state the sums, residences, and occupations of the several persons claiming the lien, and particulars of their claims*]:—

A. B., of [ <i>Residence and occupation</i> ],	£	for	days' wages, as, &c.
C. D., of	£	for	days' wages, as, &c.
E. F., of	£	for	days' wages, as, &c.

The work was done for [*State the name, residence, and occupation of the person for whom or on whose credit the work was done*] between the day of and the day of last.

The credit agreed to by the claimants expired on .

If a lien is claimed, add—

The claimants claim a lien for the above sums on the land of the said G. H. at [*Here give a description of the property to be charged sufficient for the purpose of registration*] [or on the steam-engine of the said G. H. now at (*Here give such a description of the chattel to be charged as will identify it*)].

Dated at , this day of , 19 .

[*Signatures of claimants.*]

## (5.) AFFIDAVIT VERIFYING CLAIM.

I, A. B. [*or C. D.*], make oath that the above [*or annexed*] claim is true [*or that the said claim, so far as relates to me (or to A. B.) is true*].

Or We, A. B. and C. D., named in the above [*or annexed*] claim, make oath, and each for himself says, that the said claim, so far as relates to him, is true.

[*Where the affidavit is not made by the claimant himself a clause must be added to the following effect: I, C. D., have full knowledge of the facts set forth in the above (or annexed) claim.*]

Sworn before me at , in New Zealand, }  
this day of , 19 . }

[Or The said A. B. and C. D. were severally }  
sworn before me at , in New }  
Zealand, this day of , 19 . }

Or The said E. F. was sworn before me at }  
in New Zealand, this }  
day of , 19 . }

## THE WORKERS' COMPENSATION ACT, 1908.

1908, No. 248.

AN ACT to consolidate and amend the Law with respect to Compensation to Workers for Injuries suffered in the Course of their Employment.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as "The Workers' Compensation Act, 1908," and shall come into operation on the first day of January, nineteen hundred and nine.

## Interpretation.

2. In this Act, unless a different intention appears.—

- “ Compensation ” means compensation under this Act :
- “ Court of Arbitration ” means the Court of Arbitration established under “ The Industrial Conciliation and Arbitration Act, 1908 ” :
- “ Dependant ” means a total dependant or a partial dependant as hereinafter defined :
- “ Employer ” includes any body of persons, corporate or unincorporate, and the representatives of a deceased employer :
- “ Factory ” has the same meaning as in “ The Factories Act, 1908 ” :
- “ Order ” means any judgment, direction, declaration, or order given or made by the Court in pursuance of this Act :
- “ Partial dependants ” means such of the relatives of a worker as were domiciled or resident in New Zealand at the time of the accident which caused his death and were partially dependent upon his earnings at the time of that accident :
- “ Prescribed ” means prescribed by this Act or by regulations made under the authority thereof :
- “ Regulations ” means regulations made by the Governor by Order in Council :
- “ Relative ” means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, illegitimate son, illegitimate daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister : and with respect to an illegitimate worker includes his mother, and his brothers and sisters, whether legitimate or illegitimate, by the same father and mother :
- “ Representative ” means an executor to whom probate has been granted, or an administrator, or the Public Trustee lawfully administering the estate of a deceased person :
- “ Seaman ” means any worker employed as a master, officer, seaman, apprentice, or in any other capacity whatever on board a ship by the owner or charterer thereof :
- “ Ship ” means any ship, vessel, boat, or other craft :
- “ The Court ” means the Court which by virtue of the provisions of this Act has jurisdiction in the matter referred to :
- “ Trade or business ” includes trade, business, or work carried on temporarily or permanently by or on behalf of the employer to which the Act would apply if such trade, business, or work were partly or wholly the regular trade, business, or work of an employer :

“ Total dependants ” means such of the relatives of a worker as were domiciled or resident in New Zealand at the time of the accident which caused his death and were wholly dependent upon his earnings at the time of that accident :

“ Worker ” means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether remunerated by wages, salary, or otherwise ; but does not include any person whose average weekly earnings, calculated in accordance with the provisions of this Act, exceed five pounds.

## PART I.

### COMPENSATION.

Employer liable to pay compensation for accidents to worker.

3. (1.) If in any employment to which this Act applies personal injury by accident arising out of and in the course of the employment is caused to a worker, his employer shall be liable to pay compensation in accordance with the provisions of this Act.

(2.) This Act applies only to the employment of a worker—

(a.) In and for the purposes of any trade or business carried on by the employer ; or

(b.) In any occupation specified in the First Schedule hereto, whether carried on for the purposes of the employer's trade or business or not.

(3.) For the purposes of this subsection an employer may have more than one trade or business.

(4.) The exercise and performance of the powers, duties, or functions of any Corporation or of any local authority or other governing body of a Corporation shall, for the purposes of this Act, be deemed to be the trade or business of the Corporation.

### Amount of compensation.

4. Where the death of the worker results from the injury the amount of compensation payable shall be as follows :—

(a.) If the worker leaves any total dependants, the compensation shall be a sum equal to one hundred and fifty-six times his average weekly earnings, or the sum of two hundred pounds, whichever of those sums is the larger, but not exceeding in any case five hundred pounds.

(b.) If the worker does not leave any total dependants, but leaves any partial dependants, the compensation shall be a sum equal to three times the value of the benefits received by these dependants from the deceased worker during the

- twelve months immediately preceding the accident which caused his death, but not exceeding in the aggregate in any case the sum payable under the foregoing provisions.
- (c.) If any child is born to a worker after his death, that child shall be deemed to be a dependant of the worker in the same manner as if born in his father's lifetime.
  - (c.) Whether the worker leaves dependants or not, there shall be payable, in addition to the compensation (if any) payable under the preceding paragraphs of this section, a sum equal to the reasonable expenses of his medical or surgical attendance, including first aid, and of his funeral, but not exceeding twenty pounds.
  - (f.) In every case the amount of any weekly payments made under this Act to the worker in respect of the accident which caused his death, and any lump sum paid in lieu thereof, shall be deducted from the amount of compensation payable in respect of his death.

Compensation may be by lump sum or weekly payment.

5. (1.) Where the worker's total or partial incapacity for work results from the injury, the compensation payable shall, in default of agreement, be in the discretion of the Court either a lump sum or a weekly payment during the period of his incapacity.

(2.) In exercising its jurisdiction to award a lump sum the Court shall take into consideration the ability of the employer to make compensation in this form.

(3.) When a lump sum is awarded by way of compensation under this Act instead of a weekly payment, it shall be a sum equal to the present value at five per centum compound interest of the aggregate of the weekly payments which in the opinion of the Court would probably become payable to the worker during the period of his incapacity if compensation by way of a weekly payment were then awarded in lieu of a lump sum.

(4.) If the incapacity lasts less than seven days, compensation shall not be payable in respect thereof.

(5.) If the incapacity lasts less than fourteen days, no compensation shall be payable in respect of the first seven days.

(6.) During any period of total incapacity the weekly payment shall be one-half of the worker's average weekly earnings at the time of the accident: but where the worker's ordinary rate of pay for the work at which he was employed at the time of the accident was not less than thirty shillings per week, the weekly payment shall not be less than one pound.

(7.) During any period of partial incapacity the weekly payment shall be one-half of the difference between the amount of the average

weekly earnings before the accident and the average weekly amount which the worker is earning or able to earn in some suitable employment or business after the accident.

(8.) Weekly payments shall in no case extend over a longer aggregate period than six years.

(9.) The aggregate amount of weekly payments shall in no case exceed five hundred pounds.

(10.) In fixing the amount of the weekly payment regard shall be had to any payment, allowance, or benefit which the worker may receive from the employer during the period of his incapacity.

#### How average weekly earnings calculated.

6. (1.) For the purposes of this Act the term "average weekly earnings" means the average weekly earnings received by a worker while at work during the twelve months preceding the accident if he has been so long employed by the same employer, and if not, then for any less period during which he has been in the employment of the same employer: but in calculating such average no account shall be taken of any periods during which the worker has been absent from work.

(2.) Where by reason of the shortness of the time during which a worker has been in the employment of his employer, or of the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of his remuneration in accordance with the foregoing provisions of this Act, his average weekly earnings shall be deemed to be the average weekly amount which during the twelve months previous to the accident was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no such person so employed, then by a person in the same grade employed in the same class of employment and in the same district.

(3.) Where a worker has entered into concurrent contracts of service with two or more employers under which he works at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(4.) In calculating average weekly earnings no account shall be taken of any sums that are paid to a worker to cover any special expenses entailed on him by the nature of his employment.

#### Special provision for wharf labourers, &c.

7. With respect to casual workers employed as stevedores, lumpers, or wharf labourers, the following special provision shall apply:—

The worker's average weekly earnings shall be deemed to be not less than a full working-week's earnings at the ordinary (but not overtime) rate of pay for the work at which he was employed at the time of the accident, notwithstanding that he may not have actually worked or the employment may not have actually continued for the full week, and the compensation shall be computed and assessed accordingly ; but in no case shall the weekly payment be less than one pound.

Compensation for injuries mentioned in Second Schedule.

8. (1.) Notwithstanding anything hereinbefore contained as to the rate of compensation, compensation for the injuries mentioned in the first column of the Second Schedule to this Act shall be assessed in the manner indicated in the second column of that Schedule.

(2.) Nothing in the said Schedule shall limit the amount of compensation recoverable for any such injury during any period of total incapacity due to illness resulting from that injury, but any sum so received shall be taken into account in estimating the compensation payable in accordance with the said Schedule.

Compensation for permanent incapacity when worker under twenty-one.

9. (1.) When a worker is at the time of the accident under the age of twenty-one years, and his incapacity, whether total or partial, is permanent, his average weekly earnings shall be deemed to be not less than two pounds per week, and the reduction of his earning-power shall be deemed to be not less than the difference between that sum and the weekly sum which he will probably be able to earn after attaining the age of twenty-one years.

(2.) Nothing in this section shall extend to the compensation payable on the death of a worker.

Compensation for certain diseases arising out of employment.

10. (1.) If in any employment to which this Act applies a worker contracts any disease to which this section applies, and the disease is due to the nature of the said employment, within the twelve months previous to the date of the disablement, and the incapacity or death of the worker results from that disease, compensation shall be payable as if the disease was a personal injury by accident arising out of and in the course of that employment, and all the provisions of this Act shall apply accordingly, subject, however, to the provisions of this section.

(2.) No compensation shall be payable under this section in respect of the incapacity or death of a worker if that incapacity commences or that death happens, as the case may be, more than twelve months

after the worker has ceased to be employed by the employer from whom the compensation is claimed in any employment to which this Act applies and to the nature of which the disease is due :

Provided that this subsection shall not apply to the death of a worker when his death has been preceded, whether immediately or not, by any period of incapacity in respect of which the employer is liable under this section.

(3.) For the purpose of calculating the average weekly earnings of the worker in a claim for compensation under this section, the commencement of the incapacity of the worker (or the date of his death if there has been no previous period of incapacity) shall be treated as the date of the happening of the accident, if he is then employed by the employer from whom the compensation is claimed in any employment to which this Act applies and to the nature of which the disease is due : and if he is not then so employed, the last day on which he was so employed shall for this purpose be treated as the date of the happening of the accident.

(4.) For all the other purposes of this Act the commencement of the incapacity of the worker, or the date of his death if there has been no previous period of incapacity, shall be treated as the date of the happening of the accident.

(5.) If the disease has been contracted by a gradual process, so that two or more employers are severally liable to pay compensation in respect thereof under this section, the aggregate amount of compensation recoverable shall not exceed the amount that would have been recoverable if those employers had been a single employer, and in any such case those employers shall, in default of agreement, be entitled as between themselves to such rights of contribution as the Court of Arbitration thinks just, having regard to the circumstances of the case, in any action brought or application made by any of them for this purpose.

(6.) The diseases to which this section applies are anthrax, lead poisoning, mercury poisoning, phosphorus poisoning, arsenic poisoning, pneumoconiosis (as affecting miners only), and any other diseases which are declared by the Governor, by Order in Council gazetted, to be diseases within the operation of this Act.

(7.) Nothing in this section shall affect the right of any person to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.

Act to apply only to accidents happening in New Zealand or on board New Zealand ships.

11. (1.) This Act applies to all accidents happening in New Zealand, but does not apply to accidents happening elsewhere than in New Zealand, except in the cases hereinafter in this section mentioned.



(2.) This Act applies to accidents happening on board a New Zealand ship, as defined in this section, to any worker in an employment to which this Act applies, wherever that ship may be at the time of the accident.

(3.) This Act applies to accidents which happen to a seaman employed on a New Zealand ship, as defined in this section, in any employment to which this Act applies, whether the accident happens in New Zealand or elsewhere, or on board the said ship or elsewhere.

(4.) In this Act the term "New Zealand ship" means—

(a.) Any ship which is registered in New Zealand under "The Shipping and Seamen Act, 1908":

(b.) Any ship which is owned by a body corporate established by the laws of New Zealand, or having its principal office or place of business in New Zealand, or any ship which is in the possession of any such body corporate by virtue of a charter:

(c.) Any ship which is owned by any person or body corporate whose chief office or place of business in respect of the management of that ship is in New Zealand, or any ship which is in the possession of any such person or body corporate by virtue of a charter:

(d.) Any ship which is owned by the Crown in respect of the Government of New Zealand or which is in the possession of the Crown in that respect by virtue of a charter.

(5.) For the purposes of this Act an accident shall be deemed to happen in New Zealand if it happens in any harbour thereof within the meaning of "The Shipping and Seamen Act, 1908," or within the marginal or other waters of New Zealand, and shall be deemed to happen out of New Zealand if it happens elsewhere.

(6.) Any sum payable by way of compensation under this Act by the owner of a ship shall be paid in full, notwithstanding anything contained in section two hundred and ninety-five of "The Shipping and Seamen Act, 1908."

With certain specified exceptions, Act to bind the Crown.

12. (1.) Save as otherwise expressly provided, this Act shall bind the Crown in respect of the Government of New Zealand in the same manner as if the exercise by or on behalf of the Crown of any powers or functions in respect of the Government of New Zealand were the trade or business of the Crown within the meaning of this Act.

(2.) This Act does not apply to accidents happening to persons in the naval or military service of the Crown and arising out of their employment in that service, or to accidents happening to persons in the service of the Crown otherwise than in respect of the Government of New Zealand and arising out of their employment in that service.

(3.) All proceedings against the Crown for or in respect of compensation under this Act shall be taken in accordance with the procedure set forth in "The Crown Suits Act, 1908," with any modifications of that procedure rendered necessary by the provisions of this Act or prescribed by regulations made under this Act.

(4.) Notwithstanding anything in "The Crown Suits Act, 1908," all such proceedings shall be taken in the same Court as if the compensation were payable by a private person.

(5.) Any sum payable by the Crown by way of compensation under this Act may be paid by the authority of any Minister of the Crown, and without further appropriation than this Act, out of moneys available for the contingent expenses of the Department in respect of which the claim arises; and, save as aforesaid, no such sum shall be payable except out of moneys appropriated by Parliament for that purpose.

Principal and contractor both deemed employers for purposes of this Act.

13. (1.) In any case where any person (hereinafter referred to as the principal) contracts with any other person (hereinafter referred to as the contractor) for the execution of any work by or under the contractor, and the contractor employs any worker therein, both the principal and the contractor shall, for the purposes of this Act, be deemed to be employers of the worker so employed, and shall be jointly and severally liable to pay any compensation which the contractor if he were the sole employer would be liable to pay under this Act.

(2.) The principal shall be entitled to be indemnified by the contractor against the principal's liability under this section.

(3.) The principal shall not be liable under this section except in cases where the accident happens on, in, or about some land, building, ship, or premises of which the principal has the occupation, possession, or control, or of which some other person is in occupation as the tenant or subtenant of the principal, or on or in which the principal has contracted to do the work in connection with which the accident happens.

(4.) The principal shall not be liable under this section unless one of the following conditions is fulfilled:—

(a.) The work in which the worker is employed at the time of the accident is directly a part of or a process in the trade or business of the principal; or

(b.) The work in which the worker is employed at the time of the accident is one of the occupations mentioned in the First Schedule hereto, and the contract entered into by the principal is such as to involve a payment by him of not less than twenty pounds for the due and complete performance thereof.

(5.) The Crown or a local authority having the control of any road or street shall not by reason of that control be liable under this section to pay compensation in respect of any accident arising out of the use of that road or street by any person for the purposes of a highway.

(6.) When the principal and the contractor are jointly and severally liable under this section, judgment recovered against one of them shall not be any bar to an action against the other, except to the extent to which that judgment has been actually satisfied.

(7.) When compensation is claimed from or proceedings are taken against the principal, then in the application of this Act references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the worker under the employer by whom he is immediately employed.

(8.) In the case of subcontracts the expression "principal" shall include not only the original principal, but also each contractor who constitutes himself a principal with respect to a subcontractor by contracting with him for the execution by him of the whole or any part of the work; and the expression "contractor" shall include not only the original contractor, but also each subcontractor; and each principal's right of indemnity shall include a right against every contractor liable under this section and standing between him and the contractor by whom the worker was employed.

(9.) For the purposes of paragraph (a) of this section the expression "trade or business of the principal" shall, when the principal is the Crown or a local authority or body corporate, be read in its ordinary and natural sense, and not in the extended sense indicated in section three and section twelve of this Act.

No abatement of compensation if claimant insured.

14. In assessing compensation, whether under this Act or independently hereof, there shall be no abatement of the amount for which the employer or his insurer is liable by reason of the fact that, in consequence of the accident in respect of which the claim has arisen, money has accrued due to the claimant in respect of any life or accident insurance policy effected by himself or by any person other than the employer.

No compensation where injury due to misconduct.

15. No compensation shall be payable in respect of any accident which is attributable to the serious and wilful misconduct of the worker injured or killed.

Effect on compensation of unreasonable refusal to submit to medical or surgical treatment.

16. No compensation shall be payable in respect of the death or incapacity of a worker if his death is caused, or if and so far as his

incapacity is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment the risk of which is, in the opinion of the Court, inconsiderable<sup>2</sup> in view of the seriousness of the injury or disease.

Worker may agree with employer that no compensation payable on account of disease or injury from which worker has suffered prior to employment.

17. (1.) No compensation shall be payable in respect of the incapacity or death of a worker which is due to disease or personal injury if the worker has at any time in writing signed by him represented to the employer in respect of whose employment the claim to compensation is made that the worker was not suffering or had not previously suffered from the said disease or injury, and if the said representation was false to the knowledge of the worker.

(2.) Notwithstanding anything to the contrary in this Act, if any worker suffers from or has previously suffered from any disease or personal injury, it shall be lawful for him (whether he is or is not above the age of twenty-one years) to agree in writing with any employer or intended employer that no compensation shall be payable by that employer in respect of the incapacity or death of the worker if his incapacity or death is due to the said disease or injury or to any recurrence or repetition thereof.

Agreement to be approved by Magistrate.

(3.) No such agreement shall be binding until and unless it has been approved in writing by a Magistrate. The Magistrate shall, before granting his approval, take such steps as he considers reasonable to ascertain whether the worker suffers or has suffered from the said disease or injury, and whether the agreement is for the benefit of the worker. The approval of the Magistrate shall, in the absence of fraud on the part of the employer or intended employer, be conclusive as to the validity of any such agreement.

(4.) Every such agreement shall remain in force and shall operate with respect to any employment or employments then or at any time afterwards existing between the parties until the agreement is cancelled by the employer by writing signed by him or by some person duly authorised on his behalf.

With certain specified exceptions, liability not affected by agreement.

18. (1.) Save as otherwise expressly provided in this Act, no agreement between an employer and a worker, whether made before or after the coming into operation of this Act, shall be effective so as to exempt the employer in whole or in part from any liability to pay compensation for any injury to be suffered by the worker.

(2.) Notwithstanding anything in this section contained, an agreement may be made between an employer and a worker, or between an employer and any representative or dependant of a deceased

worker, or between any such dependants themselves, after the happening of an injury to the worker, for the settlement of any claim to compensation or of any question arising with respect to compensation.

(3.) Any such agreement as is mentioned in the last preceding subsection shall be binding on the parties thereto, and any such agreement entered into by the representative of a deceased worker shall be binding on the dependants of that worker.

(4.) Any such agreement as is mentioned in subsection two of this section may be made by and shall be binding on a person under the age of twenty-one years, if it is made in writing and approved by a Magistrate: and, unless the Magistrate otherwise orders, any money payable to such person under any such agreement may be paid to him, and his receipt thereof shall be a sufficient discharge.

(5.) Nothing in this section shall be so construed as to confer upon the representative of a deceased worker any power to determine the shares in which compensation is to be apportioned between the dependants of that worker.

## PART II.

### PROCEDURE.

Proceedings to be in Court of Arbitration.

19. (1.) All proceedings for the recovery of compensation, or for the determination of any question as to the distribution of such compensation among dependants, or for obtaining any order which by this Act a Court is authorised to make with respect to compensation, shall be taken in the Court of Arbitration, and not elsewhere.

(2.) Any agreement as to the payment of compensation or otherwise relating to compensation may be enforced in the Court of Arbitration.

(3.) Any right of indemnity conferred by this Act shall be enforceable in the Supreme Court or some other Court of competent jurisdiction, and not (save with the consent of the parties) in the Court of Arbitration.

Procedure to be determined by regulations under Act.

20. (1.) Subject to the provisions of this Act, the procedure in any proceedings taken in the Court of Arbitration by virtue of this Act, and the mode of enforcement of any order made by the said Court by virtue of this Act, and the fees payable in respect of any such proceedings, shall be determined by regulations made under the authority of this Act: and in default of any such regulations, or so far as they do not extend, the procedure shall be the same as that of the said Court in the exercise of the powers vested in it by "The Industrial Conciliation and Arbitration Act, 1908," subject only to such modifications and additions as in the opinion of the Court shall be necessary.

(2.) No appeal shall lie to any other Court from any order made by the Court of Arbitration under this Act, nor shall any such order be removed by *certiorari* or otherwise into any other Court to be there quashed or varied on any ground other than want of or excess of jurisdiction.

(3.) Every action in the Court of Arbitration under this Act shall be commenced by writ of summons in the prescribed manner.

Proceedings in case of death of worker.

21. (1.) In the case of an accident causing the death of a worker, proceedings for the recovery of compensation shall be taken by the representative of the deceased worker on behalf of the dependants.

(2.) If there is no such representative, or if no such proceedings are taken by him within three months after the death of the worker, the proceedings may be taken by the dependants of the worker, or by any one or more of them on behalf of all of them.

Recovery of expenses of medical attendance or of funeral of deceased worker.

22. (1.) Any money payable under this Act by way of compensation in respect of the expenses of the medical or surgical attendance or funeral of a deceased worker may be recovered by action in the Magistrate's Court in accordance with this Act at the suit of the representative or of any dependant of that worker, or at the suit of any person by whom the said expenses or any of them have been incurred, or at the suit of any person entitled to receive any payment in respect of the said attendance or funeral.

(2.) All moneys so recovered shall, in default of agreement between the parties interested, be subject to the order of the Court, and shall be disposed of in such manner and in such shares as the Court orders for the benefit of all or any of the persons who are so entitled to sue for the same.

Court may order joinder of plaintiffs or of defendants.

23. In any proceedings under this Act the Court of Arbitration may order any other parties to be joined as plaintiffs or defendants whose joinder is, in the opinion of the Court, necessary or advisable for doing complete justice in the matter of the proceedings.

Notice of accident to be given to employer.

24. (1.) An action for the recovery of compensation shall not be maintainable by a worker unless notice of the accident has been given as soon as practicable after the happening thereof.

(2.) The want of or any defect or inaccuracy in any such notice shall not be a bar to the action if the Court is of opinion that the employer has not been prejudiced in his defence or otherwise by the want, defect, or inaccuracy, or that the want, defect, or inaccuracy was occasioned by mistake, or by absence from New Zealand, or by any other reasonable cause.

(3.) Notice of an accident shall be in writing, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date and place at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of them.

(4.) The notice may be served by delivering it at or sending it by post in a registered letter addressed to the residence or any office or place of business of the person or corporation on whom it is to be served.

(5.) The notice if served by registered post shall be deemed to have been served at the time when it would have been delivered in the ordinary course of post, and in proving the service it shall be sufficient to prove that the notice was properly addressed and posted.

(6.) When the worker is employed by or on behalf of the Crown the notice shall be served on the Solicitor-General at Wellington.

(7.) In the case of an accident happening, whether in New Zealand or elsewhere, to a seaman in the course of his employment as such, the notice required by this section may be served on the master of the ship on which he is employed, unless he is himself the master thereof.

(8.) Nothing in this section shall apply to the recovery of compensation for the death of a worker.

#### Limitation of actions under Act.

25. (1.) Save as provided in this section, no action for the recovery of compensation shall be commenced except within six months after the date of the accident causing the injury, or, in case of death, except within six months after the date of the death.

(2.) If any payment of compensation or damages has been made by or on behalf of the employer in respect of the injury or death, an action for compensation may be commenced against the employer at any time within six months after that payment or after the last of any such payments, if more than one.

(3.) If any admission of liability to pay damages or compensation in respect of the injury or death of a worker has been signed by the employer or by any person duly authorised on his behalf, an action for compensation may be commenced against that employer at any time within six months after the date of the signing of that admission, or after the date of the signing of the last of any such admissions, if more than one.

(4.) A failure to commence the action within the time hereby limited shall be no bar to the action if, in the opinion of the Court, the failure was occasioned by mistake, or by absence from New Zealand, or by any other reasonable cause.

#### Declaration of liability by employer in certain cases.

26. (1.) In the case of any injury suffered by a worker which does not presently cause incapacity, but may cause it in the future,

he may, within the time limited in this Act for commencing an action for compensation, bring an action against his employer, or against any other person who would be liable to pay compensation in respect of that future incapacity, for a declaration of liability under this Act; and the Court may in that action make a declaration of such liability, which shall have the effect of a judgment for compensation to be afterwards assessed, and within six months thereafter the worker may in that action apply to the Court to have compensation assessed in pursuance of the declaration on proof that incapacity has resulted from the injury, and the compensation so assessed shall be payable accordingly as under a judgment of the Court.

(2.) All the provisions of this Act with respect to an action for the recovery of compensation shall, so far as applicable, extend and apply to an action for a declaration of liability.

(3.) In any action for the recovery of compensation, if it is proved that an accident has happened for which the defendant would be liable to pay compensation if incapacity had resulted therefrom, but it is not proved that any incapacity has so resulted, the Court may, if it thinks fit, instead of dismissing the action, make a declaration of liability under this Act, and any such declaration shall have the same effect as a like declaration made under the foregoing provisions of this section.

Order or agreement for weekly payment may be reviewed by Court.

27. (1.) Any order or agreement for a weekly payment of compensation may at any time and from time to time, in an action brought or application made for that purpose, be reviewed by the Court of Arbitration; and on any such review the payments may be ended, suspended, diminished, or increased, or may be revived after any period of suspension, or may be commuted for a lump sum, or the order or agreement may be otherwise varied, but so that the compensation so awarded is in conformity with the provisions of this Act.

(2.) Every such action or application for a review may be brought or made by or against the worker entitled to the compensation, and against or by the employer or by any other person liable to pay that compensation, or to indemnify any other person against it, whether by way of insurance or otherwise.

(3.) On any such review the order ending, suspending, diminishing, increasing, or reviving the payments may be made retrospective to such extent and in such manner as the Court thinks fit.

Order may be set aside or varied.

28. (1.) Where the Court of Arbitration is satisfied—

(a.) That any order made by it under this Act has been obtained by fraud or other improper means; or



- (b.) That any person has been erroneously included or erroneously not included in any order as a dependant of a deceased worker.

the Court may set aside or vary the order, and may make such order (including an order as to any sum already paid under the order) as under the circumstances the Court thinks fit.

(2.) An application under this section to set aside or vary an order shall not be made after the expiration of six months from the date of the order, except by leave of the Judge of the Court of Arbitration.

Apportionment of compensation.

29. (1.) Any sum payable by way of compensation to or on behalf of the dependants of a worker shall, in default of any agreement between the dependants, be allotted among them in such proportions as the Court determines.

(2.) When there are both total and partial dependants the compensation may be allotted partly to the total and partly to the partial dependants, as the Court thinks fit.

(3.) In any case the compensation may be allotted wholly to one or more of the dependants to the exclusion of the others, as to the Court seems fit.

Compensation in case of death to be paid into and applied by Court.

30. In any action for the recovery of compensation payable to or on behalf of dependants in the case of the death of a worker the Court may order that the amount of that compensation shall be paid into Court; and any sum so paid into Court shall be invested, applied, or otherwise dealt with by the Court in such manner as the Court in its discretion thinks fit for the benefit of the said dependants or any of them.

Moneys to be invested by Public Trustee.

31. Any sum directed in pursuance of this Act to be invested shall be paid to the Public Trustee, who shall deal with all such moneys and the income thereof in accordance with regulations and the orders of the Court.

Court to direct mode of weekly payment.

32. In any order for weekly payments of compensation the Court may give such directions as it thinks fit as to the times, intervals, and manner at or in which those payments are to be made, and as to the payment in a lump sum or otherwise, as the Court thinks fit, of all arrears of weekly payments in respect of any period of incapacity prior to the making of the order.

Apportionment of compensation may be varied by order of Court.

33. Where money has been paid into Court by way of compensation on the death of a worker, and it subsequently appears to the

Court, on application made by or on behalf of any dependant, that on account of neglect of children on the part of a widow, or on account of a variation in the circumstances of the various dependants, or for any other sufficient reason, any order of the Court as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum allotted to any such dependant is to be invested, applied, or otherwise dealt with, ought to be varied, the Court may make such order for the variation of the former order as in the circumstances of the case the Court thinks just.

Court to direct payment where compensation due to person under twenty-one, or of unsound mind.

34. (1.) Where any money is payable under this Act to a person under the age of twenty-one years, or of unsound mind, or under any other legal disability, the Court may order either that the money shall be paid to that person himself or to any other person on his behalf, or that it shall be paid into Court to be dealt with for the benefit of the person entitled thereto in such manner as to the Court seems fit.

(2.) Unless and until the Court otherwise orders, any weekly payment to which a person under the age of twenty-one years is entitled by virtue of this Act may be paid to him, and his receipt thereof shall be a sufficient discharge therefor.

Payment to representative.

35. (1.) Subject to and until there is any order of the Court to the contrary, any money payable by way of compensation under this Act in respect of the death of a worker may be paid to the representative of the said worker, and his receipt thereof shall be a sufficient discharge.

(2.) Compensation payable in respect of medical, surgical, or funeral expenses may be paid to any person entitled to take proceedings for the recovery of such compensation, and his receipt thereof shall be a sufficient discharge.

(3.) When compensation has been so received by the representative of a worker on behalf of the dependants, he shall, in default of any agreement between the dependants as to the distribution or application thereof, hold the same subject to any order which the Court may make in the matter under the provisions of section twenty-nine of this Act or otherwise.

(4.) Application to the Court for any such order may be made by the representative of the worker, or by any dependant, or by any person on behalf of a dependant.

Costs in discretion of Court.

36. Subject to any regulations made on that behalf, the costs of any action or other proceeding in the Court of Arbitration under this Act shall be in the discretion of the Court.

Solicitor's claim to costs.

37. The solicitor of a person claiming compensation shall not be entitled to recover from him any costs in respect of any action or other judicial proceedings under this Act, or to claim a lien in respect of such costs on any sum payable as compensation under any order or agreement, or to deduct such costs from any sum so payable, except to the extent to which such costs have been allowed as between the solicitor and his client by the Judge of the Court of Arbitration on the application either of the solicitor or of the client.

Court may direct payment of interest where undue delay in payment of compensation.

38. If in any action or proceeding for the recovery of compensation the Court is of opinion that there has been unreasonable delay in the payment of that compensation, the Court may, if in its discretion it thinks fit, increase the compensation payable under this Act by adding thereto interest calculated as from the commencement of the incapacity or from the death of the worker, as the case may be, up to the date of the assessment of compensation, at any rate not exceeding six per centum per annum on the total amount of compensation in the case of a lump sum, and on the aggregate amount of weekly payments up to the date of the said assessment in the case of weekly payments.

Court may require security for costs from plaintiff outside New Zealand.

39. In any action for compensation brought by any person resident out of New Zealand the Court may, if it thinks fit, order the plaintiff to give security for the costs of the action, and may stay the action until security is so given.

Court to direct mode of deduction from compensation.

40. Whenever, in accordance with this Act, any sum is to be or may be deducted from any weekly payment or other money receivable by way of compensation, the deduction shall, in default of agreement, be made in such manner and at such time or times and by such instalments (if any) as the Court thinks fit to direct.

### PART III.

#### MISCELLANEOUS PROVISIONS.

Compensation for injury in mine, &c., to be an equitable charge upon employer's interest therein.

41. (1.) When injury is caused to a worker by accident arising out of and in the course of his employment in or about any mine,

building, factory, or ship, the amount of compensation or damages for which the employer is liable in respect of that injury, whether under this Act or independently of this Act, shall be an equitable charge upon the employer's estate or interest in that mine, building, factory, or ship, and in the plant, machinery, and appliances in or about the same, and in the land on which the mine, building, or factory is situated.

(2.) This charge shall take effect from the date of the accident causing the injury, notwithstanding that the amount of the employer's liability may not yet have been determined.

(3.) As between themselves all such charges shall have priority according to the dates of the accidents out of which they arise, and in the case of accidents happening on the same day to two or more workers the charges arising therefrom shall rank equally with each other, and shall be deemed to arise at the time when the first of those accidents happens.

(4.) Subject to the provisions of the last preceding subsection, every such charge shall have priority over all existing or subsequent mortgages, charges, or incumbrances, howsoever created, other than mortgages, charges, or incumbrances existing at the time of the coming into operation of this Act, but shall have priority over these last-mentioned mortgages, charges, and incumbrances only so far as a charge possessing such priority would have been created by "The Workers' Compensation for Accidents Act, 1908," had it remained in force.

(5.) For the purpose of enforcing any such charge after the amount of the employer's liability has been determined in due course of law, whether by action, agreement, or otherwise, the Supreme Court or a Judge thereof may, on summons, make such order as he or it thinks fit, either for the sale of the estate or interest which is subject to the charge, or for the appointment of a receiver, or otherwise; and any order for sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ of sale, with any modifications that may be necessary or may be provided by rules of Court in that behalf.

Liability to be a charge upon insurance moneys payable as compensation when employer dies insolvent or becomes bankrupt.

42. (1.) When any employer has entered into a contract with any insurer for an indemnity in respect of any liability to pay compensation or damages to any worker, or to the representative or dependants of any worker, in respect of any accident, then in the event of the employer dying insolvent, or becoming bankrupt, or making a composition or arrangement with his creditors, or, if the employer is a body corporate, in the event of that body corporate having commenced to be wound up, the amount of that liability, whether already determined or not, shall be a charge upon all insurance moneys which

are or may become payable in respect of that liability, or which would be or become payable in respect thereof had no such insolvency, bankruptcy, composition, arrangement, or winding-up taken place.

(2.) The said charge shall have priority over all other charges or claims affecting the said insurance-moneys, and where the same insurance-moneys are subject to two or more charges by virtue of this Act those charges shall have priority between themselves in the order of the dates of the accidents out of which the liability arose, and if two or more accidents happen to different workers on the same day the charges arising out of these accidents shall rank equally between themselves.

(3.) Such a charge shall be enforceable by way of an action against the insurer by the worker or the representative or dependants of the worker in the same manner and in the same Court as if the action was against the employer for compensation under this Act or for damages, as the case may be; and in respect of any such action, and of the judgment given therein, the parties shall to the extent of the charge have the same rights and liabilities, and the Court shall have the same power, as if the action was against the employer.

(4.) Such an action may be brought although judgment has been already recovered against the employer for compensation or damages in respect of the same matter.

(5.) This section does not apply when a body corporate is wound up voluntarily merely for the purposes of reconstruction or amalgamation with another body corporate.

(6.) Any payment made by an insurer under the contract of insurance without actual notice of the existence of any such charge shall to the extent of that payment be a valid discharge to the insurer, notwithstanding anything in this section contained.

(7.) No insurer shall be liable under this section for any sum beyond the limits fixed by the contract of insurance as between himself and the employer.

Act not to affect independent liability.

43. (1.) Save as otherwise expressly provided by this Act, nothing in this Act shall affect any civil liability of an employer or any other person which exists independently of this Act.

(2.) Any sum received by a worker, or by or on behalf of any dependant of a worker, from any person by way of damages in respect of an accident shall be deducted from the sum recoverable by that worker, or by or on behalf of his dependants, by way of compensation in respect of the same accident.

(3.) Any sum received by a worker, or by or on behalf of any dependant of a worker, by way of compensation in respect of any accident shall be deducted from the sum recoverable by that worker, or by or on behalf of his dependants, from any person by way of damages in respect of the same accident.

(4.) When judgment has been recovered by or on behalf of any person for compensation that person shall not be entitled thereafter to recover damages from any person in respect of the same accident.

(5.) When judgment has been recovered against any person for damages independently of this Act in respect of an accident, no person by or on whose behalf that judgment has been recovered shall be entitled thereafter to recover compensation from any person in respect of the same accident.

*Indemnity of employer in certain cases.*

44. Where the injury for which compensation is payable was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the person by whom the compensation is paid or payable, whether directly or by way of an indemnity, shall be entitled to be indemnified by the person so liable to pay damages to the extent of his liability to pay the same.

*Agreement for compensation binding.*

45. When any claim against an employer for compensation under this Act, or for damages independently of this Act, has been settled by agreement, no person bound by that agreement shall be entitled to recover from the employer in respect of the same accident any sum, whether by way of damages or of compensation, other than the amount so agreed upon.

*Procedure where action brought independently of this Act.*

46. (1.) If within the time limited by this Act for commencing an action for the recovery of compensation an action is brought in the Supreme Court to recover damages independently of this Act in respect of an accident, and it is determined in the action that the accident is one for which the defendant is not liable independently of this Act, the action shall be dismissed; but the Judge before whom the action is tried shall, on the application of the plaintiff made at the time of the dismissal or as soon thereafter as practicable, proceed to determine whether the defendant is liable to pay compensation under this Act, and if he is found to be so liable, the Judge shall thereupon assess the compensation as if in an action for the recovery thereof, but he shall deduct from the amount of compensation the costs which in his opinion have been caused by the plaintiff suing for damages instead of for compensation.

(2.) For the purposes of any such determination of the defendant's liability under this Act, and the assessment of compensation, the Judge may hear such further evidence (if any) as he thinks fit, as if the hearing of the application were the trial of an action in the said Court, or may act upon the evidence already given in the trial of the action.

(3.) The Judge shall thereupon give under the seal of the Supreme Court a certificate of the amount of compensation so assessed by him, subject to such deduction as aforesaid, and shall cause the certificate to be delivered to the Court of Arbitration to be filed in that Court.

(4.) In any such certificate the Judge may make any order as to the payment, distribution, receipt, application, investment, or other disposition of the compensation so assessed which might be made by the Court of Arbitration in an action for the recovery of that compensation.

(5.) The certificate when so filed in the Court of Arbitration shall be deemed to be and shall have the effect of a judgment of that Court in an action for compensation, and the Court of Arbitration shall in respect of that certificate and judgment have the same powers as are in this Act conferred upon that Court in respect of judgments given thereby.

(6.) No appeal or application for a new trial shall lie or be made in respect of any such assessment of compensation by a Judge of the Supreme Court, or in respect of any order so made by him as to the compensation so assessed.

(7.) If any appeal or application for a new trial is brought or made by the plaintiff in respect of the dismissal of the action in which any such assessment of compensation is made, and the appeal is allowed or the application granted, the assessment of compensation shall thereupon cease to have any force or effect, as if it had not been made.

(8.) During the pendency of any such appeal or application for a new trial, any Judge of the Supreme Court may, if he thinks fit, make an order staying all proceedings on the said assessment and certificate.

(9.) If in any such action as is mentioned in subsection one of this section judgment for damages is given for the plaintiff, and the judgment is reversed on appeal, the Court of Appeal may, if it thinks fit, remit the case to the Judge before whom the action was tried, or to any other Judge of the Supreme Court, to determine the liability of the defendant to pay compensation under this Act, and the said Judge shall thereupon have the same powers in that behalf as are hereinbefore in this section set forth.

(10.) Save as in this section provided, when an action has been brought in any Court against an employer to recover damages for an accident independently of this Act, and it has been decided in that action that the employer is not so liable, he shall not be liable to pay in respect of the same accident compensation under this Act either to the plaintiff in that action or to any other person on whose behalf the said action was brought.

Compensation claims provable in bankruptcy.

47. (1.) When there is any actual or contingent claim for compensation under this Act against any person or corporation, and that person is adjudicated bankrupt, or files a petition to be so adjudicated,

or that corporation commences to be wound up, as the case may be, after the happening of the accident out of which the claim arises, the said claim shall be provable in the bankruptcy or winding-up.

(2.) No such bankruptcy or winding-up shall preclude or affect the commencement or continuance of any action or proceeding in the Court of Arbitration or elsewhere for the determination of the validity or amount of the said claim, or for the determination of any other question relating thereto.

(3.) If weekly payments are payable by way of compensation under any agreement or any order of the Court, the claim to be proved shall be for such lump sum in lieu thereof as is agreed upon between the Official Assignee or the liquidator and the person entitled to recover the compensation, or as is assessed either by the Court of Arbitration or by any Court having jurisdiction in the bankruptcy or winding-up.

Claim for compensation in case of death not barred by any judgment obtained by worker in respect of accident causing death.

48. No claim to compensation in respect of the death of a worker shall be barred by any judgment obtained by the worker himself in his lifetime in respect of the injury which caused his death, whether that judgment was obtained under this Act or independently of this Act, or by any settlement or accord and satisfaction made by the worker in his lifetime in respect of his claim to damages or compensation for that injury; but the claim for compensation in respect of his death shall be reduced by the amount of all moneys paid or payable by way of damages or compensation under any such judgment, settlement, or accord and satisfaction, or otherwise received by the worker from his employer in respect of his injury:

Provided that every such claim shall be made within six months after the death of the worker or the last date of admission of liability by the employer.

Cause of action to survive person liable to pay compensation.

49. A cause of action for the recovery of compensation shall survive notwithstanding the death of the employer or other person liable to pay the compensation, and all proceedings under this Act may be begun or continued against the representative of the deceased employer or other person.

Right of dependant to compensation to survive dependant.

50. (1.) The right of a dependant who survives a worker to receive compensation for the death of that worker shall survive the dependant, and may be enforced by or on behalf of the representative of the dependant in the same manner in which it might have been enforced by or on behalf of the dependant had he been alive.

(2.) All moneys so recovered by the representative of a deceased dependant shall form part of the estate of that dependant, but shall not be available as assets for the payment of his debts or liabilities.



Injured worker to submit himself for medical examination if so required.

51. (1.) Where a worker has given notice of an accident or claims compensation or is entitled to weekly payments under this Act, he shall, if and as often as so required by the employer or by any person by whom the employer is entitled to be indemnified, whether by way of insurance or otherwise, in respect of any liability under this Act, or by any other person liable to pay compensation under this Act, submit himself for examination by any registered medical practitioner nominated and to be paid by the employer or such other person.

(2.) If the worker at any time without sufficient justification refuses or neglects to submit himself to any such examination, or in any way obstructs or delays the same, his rights under this Act in respect of the accident to which the examination relates shall be suspended until the examination takes place, and shall absolutely cease if he fails without sufficient justification to submit himself for examination within one month after being required so to do.

(3.) Where a right to compensation is so suspended, no compensation shall be payable in respect of the period of suspension.

(4.) This section shall apply whether the worker is at the time when he is required to submit himself for examination resident in New Zealand or elsewhere, but if he is resident elsewhere than in New Zealand he shall be required to submit himself for examination by a duly qualified medical practitioner of the place where he is resident.

(5.) This section shall be read subject to any restrictions and conditions which may be imposed by regulations as to the frequency of medical examinations and the manner in which they are to be conducted.

#### Medical referees.

52. (1.) The Governor may appoint such registered medical practitioners to be medical referees for the purposes of this Act as he thinks fit, and the remuneration of those medical referees shall, subject to regulations made under this Act, be paid out of moneys appropriated by Parliament for that purpose.

(2.) The Court of Arbitration may submit to a medical referee for report any matter which seems material to any question arising in relation to compensation under this Act, and may, if it thinks fit, act in accordance with that report in the same manner as if it were evidence duly given before the Court.

(3.) The Court of Arbitration may, in the course of any action or proceeding under this Act, order any person who claims or is entitled to compensation in respect of any injury or disease to submit to medical examination by any one or more medical referees or other registered medical practitioners nominated by the Court, and in respect of any such order subsections two and three of the last preceding section shall be applicable.

(4.) Where a worker claims compensation under this Act and a dispute exists between the worker and his employer as to the existence,

nature, or cause of the injury or disease from which the worker is alleged to suffer, or as to the fitness of the worker for any kind of employment, the worker and employer may by writing under their hands submit any such question to a medical referee, and the written certificate of the referee delivered in duplicate to the employer and the worker shall be conclusive evidence of the facts so certified by him.

Reciprocal application of Act outside New Zealand.

53. Where the Governor is satisfied that by the laws of any other country within the dominions of the Crown compensation for accidents is payable to the relatives of a deceased worker although they are resident in New Zealand, he may by Order in Council declare that relatives resident in that country shall have the same rights and remedies under this Act as if resident in New Zealand.

Compensation moneys not assignable.

54. No money paid or payable by way of compensation under this Act, and no money so paid and remaining in the hands of the Public Trustee under any order of the Court, shall be capable of being assigned, charged, taken in execution, or attached, nor shall any claim be set off against it, nor shall it be assets in the bankruptcy of the person entitled thereto.

Moneys paid by employer on account of injury to worker to be deducted from compensation.

55. When under the provisions of any statute an employer has paid or is liable to pay any sum of money (other than damages) to or for the benefit of a worker or any dependant of a worker in respect of any accident happening to that worker, or where any sum of money has in respect of any such accident been paid or is payable to or for the benefit of the worker or any such dependant out of any fund to which the employer is by any statute bound to contribute, the amount of any money so paid or payable shall be deducted from any compensation payable under this Act in respect of the same accident.

Superannuation Acts not affected.

56. Nothing in this Act shall affect the provisions of Part II of "The Public Service Classification and Superannuation Act, 1908," Part II of "The Police Force Act, 1908," Part IX of "The Education Act, 1908," or Part III of "The Government Railways Act, 1908."

Mining contractors deemed to be workers.

57. (1.) Notwithstanding anything in this Act or any other Act, when a contract to perform any work in a gold-mine or coal-mine is let directly to one or more contractors who do not either sublet the contract or employ wages-men, or who, though employing wages-men,

actually perform any part of the work themselves, those contractors shall for the purposes of this Act be deemed to be working under a contract of service with an employer.

(2.) No deduction shall be made from the wages or other remuneration of any such contractor or his wages-men on account of any insurance or indemnity issued by an insurance company or otherwise to any person indemnifying him against liability in respect of accidents to any such contractor or his wages-men, and any such deduction shall constitute an offence against Part II of "The Wages Protection and Contractors' Liens Act, 1908."

Contracting out under scheme for compensation approved by Arbitration Court.

58. In any case where, on application in the prescribed manner to the Judge of the Court of Arbitration, the Court, after taking steps to ascertain the views of the employer and workers, certifies that any scheme of compensation, benefit, or insurance for the workers, whether or not such scheme includes other employers and their workers, is on the whole not less favourable to the general body of workers and their dependants than the provisions of this Act, the following provisions shall apply:—

- (a.) The employer may, until the certificate is revoked, contract with any of those workers that the provisions of the scheme shall be substituted for the provisions of this Act; and thereupon the employer shall, as respects the workers with whom he so contracts, be liable in accordance with the scheme in lieu of this Act; but, save as aforesaid, this Act shall apply, notwithstanding any contract to the contrary made after the coming into operation of "The Workers' Compensation for Accidents Act, 1900."
- (b.) The Court may give such certificate to expire at the end of a limited period to be specified therein, being not more than five years.
- (c.) No scheme shall be so certified which contains an obligation upon the workers to join the scheme as a condition of their hiring.
- (d.) If during the currency of the certificate complaint is made to the Court by or on behalf of the employer or the workers, or a majority of them, that the provisions of the scheme are no longer on the whole so favourable to the employers or to the general body of workers and their dependants as the provisions of this Act, or that the provisions of the scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Court shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

- (c.) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall be distributed as may be arranged between the employer and workers, or as may be determined by the Court in the event of a difference of opinion.
- (f.) For the purposes of this section it shall be the duty of the employer and workers to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Court.

#### Regulations.

59. The Governor may from time to time by Order in Council make regulations for the following purposes:—

- (a.) Prescribing the procedure in any proceedings under this Act in the Court of Arbitration.
- (b.) Prescribing the Court fees (if any) payable in any such proceedings.
- (c.) Prescribing the duties of the Public Trustee in respect of
  - moneys to be invested or administered by him under this Act.
- (d.) Declaring that any disease shall come within the provisions of this Act in addition to those herein specified.
- (e.) Making any other provisions consistent with this Act which he thinks necessary or advisable in order to give full effect to the provisions of this Act.

#### Repeals.

60. (1.) “The Employers’ Liability Act, 1908.” is hereby repealed.

(2.) “The Workers’ Compensation for Accidents Act, 1908,” is hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this Act.

#### Condition of accident insurance policies.

61. Every policy of insurance or indemnity indemnifying an employer against his liability in relation to workers’ compensation under this Act, or at common law or otherwise, issued on or after the coming into operation of this Act, shall contain only such provisions as may be approved by the Governor in Council.

#### Rule as to common employment abolished.

62. (1.) When any injury or damage is suffered by a servant by reason of the negligence of a fellow-servant, the employer of those servants shall be liable in damages in respect to that injury or damage in the same manner and in the same cases as if those servants had not been engaged in a common employment.

(2.) This section applies to every case in which the relation of employer and servant exists, whether the contract of employment is made before or after the commencement of this Act, and whether or not the employment is one to which the other provisions of this Act apply.

(3.) No servant shall be entitled to recover from his employer in respect of the negligence of a fellow-servant (whether the right of action is conferred by this section or exists independently of this section) a larger sum by way of damages for any one cause of action than five hundred pounds. Nothing in this subsection shall affect the measure of damages in an action brought against an employer in respect of the death of a servant.

#### Provision where insurer contests claim.

63. Where an insurance company or person indemnifies an employer against his liability for accidents to workers under this Act or at common law or otherwise, and has used or uses such employer's name or has acted on his behalf in any action or proceedings in the Arbitration Court or other Court, such insurance company or person shall be bound by the decision of the Court in the same manner and to the same extent as the employer, and shall indemnify him accordingly, provided that the liability of the insurance company or person shall be limited by the terms and conditions of the policy.

---

## SCHEDULES.

---

### FIRST SCHEDULE.

#### OCCUPATIONS.

**MINING :** quarrying ; excavation ; the cutting of standing timber, including the cutting of scrub and clearing land of stumps and logs ; the erection or demolition of any building ; the manufacture or use of any explosive ; the charge or use of any machinery in motion and driven by steam or other mechanical power ; the driving of any vehicle drawn or propelled by horse-power or mechanical power ; any occupation in which a worker incurs a risk of falling any distance exceeding twelve feet, if the injury or death of the worker results from such a fall.

## SECOND SCHEDULE.

Nature of Injury.	Ratio of Compensation to Full Compensation as for Total Incapacity.	
Loss of both eyes .. .. .	} 100 per cent.	
Loss of both hands .. .. .		
Loss of both feet .. .. .		
Loss of a hand and a foot .. .. .		
Total and incurable loss of mental powers involving inability to work		
Total and incurable paralysis of the limbs or of mental powers		
The total loss of the right arm, or of the greater part of the arm	80	..
The total loss of the left arm, or of the greater part of the arm	75	..
The total loss of the right hand, or of five fingers of the right hand, or of the lower part of the right arm	70	..
The total loss of the same for the left hand and arm ..	65	..
The total loss of a leg .. .. .	75	..
The total loss of a foot, or the lower part of the leg ..	60	..
The total loss of the sight of one eye, together with the serious diminution of the sight of the other eye	75	..
The total loss of hearing .. .. .	50	..
The total loss of the sight of one eye .. .. .	30	..
The total loss of the thumb of the right hand .. .. .	30	..
The total loss of the thumb of the left hand .. .. .	25	..
The total loss of the forefinger of the right hand .. .. .	20	..
The total loss of the forefinger of the left hand .. .. .	15	..
The total loss of part of the thumb of the right hand ..	15	..
The total loss of the little finger of the hand .. .. .	12	..
The total loss of the middle or ring finger of the hand ..	8	..
The total loss of a toe or of a joint of a finger .. .. .	5	..
Complete deafness of one ear .. .. .	10	..

For the purposes of this Schedule an eye, hand, or foot shall be deemed to be lost if it is rendered permanently and wholly useless.

Where a worker suffers by the same accident more than one of the injuries mentioned in this Schedule, he shall not in any case be entitled to receive more than full compensation as for total incapacity.

## THE WORKERS' DWELLINGS ACT, 1908.

1908, No. 208.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Erection of Workers' Dwellings.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

## Short Title.

1. (1.) The Short Title of this Act is "The Workers' Dwellings Act, 1908."

## Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply :—

## Savings.

- (a.) All Orders in Council, orders, regulations, special orders, leases, contracts, works, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## Interpretation.

2. In this Act, if not inconsistent with the context,—

"Capital value" means the capital value fixed by the Minister, and shall cover the capital value of the land, the cost (if any) of its acquisition, the cost of survey, roading, subdivision, and other works and operations done on the land (including the cost of erection of the dwelling), the proper proportion of the value of so much of the land as is absorbed by roads or streets, and the estimated cost of administration :

"Land Board" means the Land Board constituted under "The Land Act, 1908," for the land district within which the worker's dwelling is situate :

"Lessee" includes the legal representatives of a deceased lessee :

"Minister" means the Minister of Labour :

“ Worker ” means every person, male or female, who is employed in work of any kind or in manual labour, and who at the time of his application is not in receipt of more than two hundred pounds per annum :

“ Worker’s dwelling ” means any dwelling erected on land set apart under this Act ; and includes the land on which the same is erected or held therewith, not exceeding half an acre in the case of urban allotments, or one acre in the case of suburban allotments, or five acres in the case of rural allotments ; and also includes all outbuildings and sanitary and drainage arrangements necessary for such dwelling.

Land may be set apart for the purposes of this Act.

3. (1.) The Governor may from time to time, by Order in Council gazetted, set apart for the purposes of this Act any Crown land, whether within a proclaimed goldfield or not, or any land acquired under “ The Land for Settlements Act, 1908.”

(2.) The Governor may also in like manner set apart for the purposes of this Act the Polhill Gully and the Forts Reserve, Miramar, and any other land reserved for defence purposes which in his opinion is not required for such purposes, in the same manner as if the same were ordinary Crown land.

Minister may erect workers’ dwellings.

4. (1.) On any land so set apart the Minister may cause to be erected buildings suitable for workers’ dwellings, or may convert any buildings into workers’ dwellings ; and may from time to time alter, enlarge, repair, rebuild, and improve such dwellings :

Provided that the cost of such erection or construction shall not in the case of any worker’s dwelling exceed three hundred and fifty pounds if constructed of wood, or four hundred pounds if constructed of brick, stone, or concrete.

Cost of erection, &c.

(2.) All costs incurred under this section shall in the case of ordinary Crown lands be defrayed out of moneys appropriated by Parliament for that purpose, and in the case of lands acquired under “ The Land for Settlements Act, 1908.” shall be defrayed (without further appropriation than the appropriation provisions of section eighty-two of that Act) out of moneys to the credit of the Land for Settlements Account.

Disposal of same by lease.

5. Subject to the provisions of this Act, every worker’s dwelling shall be disposed of by the Land Board either on a weekly tenancy or by way of lease for a period of fifty years, with right of renewal, as hereinafter appears.



## Application.

6. Every application for a worker's dwelling shall be in such form and shall contain such particulars as are prescribed by regulations, including in every case a statement that the applicant desires or does not desire to acquire the freehold of his worker's dwelling: and if he does so desire, a further statement of the mode in which he desires to exercise such right.

## Qualifications.

7. (1.) Each applicant shall satisfy the Land Board that he is—

(a.) A worker as herein defined; and

(b.) Landless (meaning thereby that at the date of his application he is not, either by himself or jointly with any other person, the owner in fee-simple, or the tenant or occupier under a lease, of any land in New Zealand).

Preference to applicant who has the lesser income.

(2.) Where more workers than one apply for the same worker's dwelling, preference may be given to the applicant who has the lesser income, provided he is of good character, and the Board is satisfied as to his ability to pay the rent.

## Rent.

8. Where the worker's dwelling is disposed of on a weekly tenancy, the rent shall be at the rate of five per centum per annum on the capital value of the worker's dwelling, in addition to the cost of insuring the dwelling from fire at its full insurable value, and the estimated amount of rates levied under "The Rating Act, 1908."

## Provisions as to leases.

9. With respect to every lease under this Act the following provisions shall apply:—

(a.) The payments under the lease shall be payable monthly, and shall be at the rate of five per centum per annum on the capital value of the worker's dwelling (being four per centum for rent and one per centum for depreciation), in addition to the cost of insuring the dwelling from fire at its full insurable value:

Provided that where the lessee desires to acquire the freehold, and so states in his application, the rent shall be at such rate as is hereinafter mentioned.

(b.) The lease shall contain a provision that the lessee may at any time before the expiration of the term have a new lease for a further term of fifty years, containing the same covenants and provisions (including this present provision), at a rent to be fixed by valuation made by three independent persons, one to be appointed by the Minister, one by the lessee, and the third by the two persons so appointed.

- (c.) The lease shall also contain such powers, conditions, and covenants as, subject to regulations, the Minister thinks fit to prescribe, including in every case a covenant to reside in the worker's dwelling and also a covenant to maintain and keep all buildings and erections in good order and condition to the satisfaction of the Land Board.

Modes of acquiring the freehold.

10. Every lessee may acquire the freehold in fee-simple of his worker's dwelling in such one of the following modes as he specifies in his application :—

Mode A. By payment in cash of the capital value thereof at any time not less than twenty-five years from the date of his lease, in which case the payments under the lease shall be at the rate of five per centum per annum on the capital value of the worker's dwelling (being four per centum for rent and one per centum for depreciation), in addition to the cost of insuring the dwelling from fire at its full insurable value.

Mode B. (a.) By monthly payments over a period of thirty-two years, at the rate of eight per centum per annum on the capital value (being five per centum for rent, one per centum for depreciation, and two per centum for capital value), in addition to the cost of insurance as aforesaid.

(b.) By monthly payments over a period of forty-one years, at the rate of six and a half per centum per annum on the capital value (being four per centum for rent, one per centum for depreciation, and one and a half per centum capital value), in addition to the cost of insurance as aforesaid.

Mode C. By an insurance on his life as provided by section eleven hereof.

Acquiring the freehold by insurance.

11. If the lessee desires to adopt Mode C the following provisions shall apply :—

(a.) He shall pay a rent which shall be payable monthly, and shall be at the rate of five per centum per annum on the capital value of the worker's dwelling (being four per centum for rent and one per centum for depreciation), in addition to the cost of insuring the dwelling from fire at its full insurable value.

(b.) He shall insure his life with the Government Insurance Commissioner for the amount of the capital value of the worker's dwelling.

- (c.) Such insurance shall be for any term prescribed for Mode A or B at the end of which he desires to acquire the freehold, and shall be at such yearly premium as is prescribed by the Government Insurance Commissioner so as to produce at the expiration of such term, or on his death before such expiry, the amount insured.
- (d.) The premium so prescribed shall be regularly paid by the lessee, and the insurance policy shall be deposited with the Land Board.
- (e.) On the maturing of the policy the policy-moneys shall be paid to the Board.

When lessee entitled to certificate of title.

12. Whenever the full amount of the capital value as aforesaid is paid the lease shall (if the rent and other payments, if any, due under the lease have been paid, and the Land Board is satisfied that the conditions and covenants contained in the lease have been duly observed and performed) determine, and the lessee shall be entitled to receive from the District Land Registrar a certificate of title (in the form prescribed by regulations under this Act) for his worker's dwelling.

Residence of owner necessary.

13. The owner of a worker's dwelling shall reside therein, and if he fails so to do the Land Board may direct that the certificate of title shall be cancelled, and the District Land Registrar, on receipt of such direction, shall cancel such certificate accordingly, and the worker's dwelling shall thereupon revert in the Crown.

Restrictions on disposition of lease of freehold.

14. (1.) No disposition of the lease or freehold of any worker's dwelling shall be valid except with the consent of the Land Board.

(2.) The Land Board shall not arbitrarily or unreasonably refuse its consent, but in giving or withholding such consent shall be guided by the purpose and intention of this Act to provide and protect homes for workers and their families.

(3.) For the purposes of this section "disposition" includes sale, assignment, lease, sublease, mortgage, or will.

Surrender of lease.

15. With the consent of the Land Board a lessee may at any time surrender his lease upon terms mutually agreed upon between the Land Board and the lessee.

Management of workers' dwellings may be vested in local authority.

16. (1.) The local authority within whose jurisdiction any workers' dwellings are situate may at any time by special order declare its willingness to undertake the management and control of such workers'

dwellings ; and thereupon the Minister may, if he thinks fit, by notice in the *Gazette*, vest such management and control in the local authority, subject to the provisions of this Act.

(2.) The Minister may at any time thereafter (if satisfied that the local authority is not properly managing such workers' dwellings) revoke such notice, and on the gazetting of such revocation the management and control of the workers' dwellings shall revert in the Land Board.

Thereupon the unpaid capital value to be deemed to be a loan.

17. On the gazetting of any notice under the last preceding section vesting the management and control of any workers' dwellings in a local authority, the capital value of such dwellings fixed as aforesaid, or so much thereof as then remains unpaid by the lessees, shall be deemed to have been advanced to the local authority by the Minister of Finance under "The Local Bodies' Loans Act, 1908," and the provisions of that Act shall, *mutatis mutandis*, extend and apply accordingly.

Moneys received to go to Public Account.

18. All moneys received under this Act shall be paid into the Public Account, and shall in the case of ordinary Crown lands form part of the Consolidated Fund, and in the case of lands acquired under "The Land for Settlements Act, 1908," be credited to the Land for Settlements Account.

Regulations.

19. The Governor may from time to time, by Order in Council gazetted, make such regulations, not inconsistent with this Act, as may be necessary to the effectual carrying-out of this Act.

Return to be laid before Parliament.

20. The Minister shall, within thirty days after the commencement of each session, lay before Parliament a statement for the preceding financial year showing—

- (a.) The moneys expended during the preceding financial year in acquiring land under this Act, and in preparing the same for workers' dwellings, and in erecting such dwellings ;
- (b.) The number of dwellings erected, the total number of dwellings leased, and the number of dwellings leased under section nine hereof ; and
- (c.) The rentals or other payments contracted for, the amount of such rentals and payments received, and the amount of arrears outstanding.

## SCHEDULE.

### ENACTMENTS CONSOLIDATED.

1905, No. 42.—"The Workers' Dwellings Act, 1905."

1905, No. 57.—"The Workers' Dwellings Act Amendment Act, 1905."

1906, No. 15.—"The Workers' Dwellings Act Amendment Act, 1906."

1907, No. 77.—"The Appropriation Act, 1907" : Section 25.

## REGULATIONS.

---

[Extract from *New Zealand Gazette*, 19th December, 1901.]

### REGULATIONS UNDER "THE FACTORIES ACT, 1901."

---

RANFURLY, Governor.

WHEREAS by "The Factories Act, 1901," it is enacted that the Governor may from time to time make regulations for any purpose contemplated or required by the said Act: And whereas it appears expedient to make the regulations hereinafter set forth:

Now, therefore, His Excellency the Governor of the Colony of New Zealand, in pursuance and exercise of the powers conferred upon him by the said Act, doth hereby make the regulations hereinafter set forth, and doth hereby declare that such regulations shall come into force on the date of the gazetting thereof: And it is hereby further declared that all regulations in force under "The Factories Act, 1894," and its amendment, shall, as from the said last-mentioned date, be, and the same are, hereby repealed.

---

#### REGULATIONS.

##### (1.) INTERPRETATION.

IN these regulations, if not inconsistent with the context,—

"Occupier of a factory" means an occupier as defined by "The Factories Act, 1901":

"The said Act" means "The Factories Act, 1901":

"Factory" means a factory as defined by the said Act.

##### (2.) FORM OF CERTIFICATE.

The form of certificate of the appointment of an Inspector under the said Act shall be that contained in the form marked "A" in the First Schedule hereto.

(3.) FORM OF NOTICE UNDER SECTION 11 OF ACT.

The notice to be given under section 11 of "The Factories Act, 1901," by the occupier of a factory, and the particulars to be set forth in such notice, shall be in the form "B" prescribed in the First Schedule hereto, or to the like effect. Every such notice shall be served on the Inspector by delivering the same personally or through the usual course of post, so as to reach the Inspector within the time limited by the said Act.

(4.) FORM OF RETURNS.

The returns to be made by the occupiers of factories and by employers shall be in the form "C" in the First Schedule hereto, or to the like effect.

Such returns shall be furnished to the Inspector at such times as he may reasonably require in each case.

(5.) CERTIFICATE OF REGISTRATION.

The certificate of registration of a factory shall be in the form "D" set forth in the First Schedule hereto.

(6.) FORM OF NOTICE UNDER SECTION 17 OF ACT.

(Revoked 20th February, 1908. See page 524.)

(7.) OVERTIME RETURNS.

Every occupier of a factory employing workers shall furnish to the Inspector during the first week of every month a return of overtime in the form marked "F" in the First Schedule to these regulations. Such return must be properly and accurately filled in, as a compilation from the occupiers' overtime-book. (See section 22 of Act.) If required by the Inspector at any time, this return, and also the overtime-book, shall be verified by the statutory declaration of the occupier.

(8.) CERTIFICATE OF FITNESS.

The certificate of fitness under section 27 of Act shall be in the form set forth in the form "G" of the First Schedule to these regulations.

(9.) LABELS UPON ARTICLES MADE OUTSIDE FACTORY.

The label to be affixed to articles to be at least 2 in. square, made of cardboard, and printed in type as follows :—

MADE BY .....

In Number , .....Street,

IN A

PRIVATE DWELLING

OR

UNREGISTERED FACTORY.

AFFIXED UNDER "THE FACTORIES ACT, 1901,"

SECTION 28.

Any person unlawfully removing or defacing this  
label will be prosecuted.

#### (10.) REGULATION UNDER SECTION 41.

Not less than 250 cubic feet of air-space shall be allowed for each person in any factory where persons are employed during the hours between 6 o'clock in the morning and 6 o'clock in the evening, and not less than 400 cubic feet of air-space shall be provided for each person in any factory where persons are employed between 6 o'clock in the evening and 6 o'clock in the morning. By a written permit the Factory Inspector for the district may allow persons to be employed in a factory where there are less than 400 cubic feet of air-space for each person employed between 6 o'clock in the evening and 6 o'clock in the morning, provided such factory is lighted by electricity and by no other artificial light at all times during such hours as light is needed while persons are employed therein.

#### (11.) NOTICE OF APPEAL.

The form of notice of appeal from a requisition by an Inspector under section 63 of the Act shall be as set forth in Form "H" in the First Schedule hereto.

#### (12.) NOTICE BY CLERK OF COURT.

The form of notice to be given by the Clerk of the Court pursuant to section 63 of the Act shall be that set forth in Form "I" in the First Schedule hereto.

#### (13.) LOCAL REPORT FROM INSPECTOR.

The form of report to be furnished to the Minister under section 64 of the Act shall be in the Form "J" set forth in the First Schedule of these regulations.





## Form D.

"The Factories Act, 1901," Sections 14, 15, 16.

## CERTIFICATE OF REGISTRATION.

This is to certify that the premises occupied by \_\_\_\_\_, known as \_\_\_\_\_, Street, \_\_\_\_\_, in which \_\_\_\_\_ persons are employed, have this day been registered under "The Factories Act, 1901," as a factory for the manufacture of \_\_\_\_\_ or preparing for the manufacture of \_\_\_\_\_, and that the registration fee of \_\_\_\_\_ for the year ending 31st March, 19\_\_\_\_, has been paid. \_\_\_\_\_, Inspector.

Date : \_\_\_\_\_, 19\_\_\_\_.

## Form E.

(See Form E as amended, page 526)

## Form F.

"The Factories Act, 1901."

## RETURN OF OVERTIME TO BE MADE BY OCCUPIER OR EMPLOYER.

Name of place (town, &c.): \_\_\_\_\_

Name of factory: \_\_\_\_\_

Nature of work carried on: \_\_\_\_\_

*Persons employed, Hours worked, and Earnings paid on Overtime only.*

Name.	Age.	Sex.	Department.	Wages.		Overtime.		Remarks.
				Weekly Pay Rate	Piecework P te.	Hours worked.	Rate of Pay.	

declare this return to be correct in every particular.

Date : \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Occupier [or Firm].

## Form G.

"The Factories Act, 1901," Section 27.

I, \_\_\_\_\_, Inspector of Factories, hereby certify that I am satisfied that\* \_\_\_\_\_ is of the age of \_\_\_\_\_ years, and fit for employment in the factory of \_\_\_\_\_ in the trade of \_\_\_\_\_, and in all factories in the same line of trade, and also that the said \_\_\_\_\_ has passed the Fourth Standard examination under "The Education Act, 1877." or† \_\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Inspector, \_\_\_\_\_ Station.

\* Full names. † State other equivalent examination.

## Form H.

"The Factories Act, 1901," Section 63.

## NOTICE OF APPEAL.

In the matter of "The Factories Act, 1901"; and in the matter of a requisition by \_\_\_\_\_ of \_\_\_\_\_, an Inspector under the said Act, which said requisition is dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and is numbered \_\_\_\_\_.

NOTICE is hereby given that I [we], the occupier upon whom the said requisition has been served, consider such requisition to be unreasonable, and desire to appeal therefrom. A true copy of the said requisition is hereto attached, marked "A"

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Occupier of Factory.

## Form I.

"The Factories Act, 1901," Section 63.

NOTICE BY CLERK OF COURT.

In the matter of "The Factories Act, 1901"; and in the matter of an appeal from a requisition of \_\_\_\_\_, an Inspector under the said Act, which said requisition is numbered \_\_\_\_\_.

This is to notify you that the above-mentioned appeal has been set down for hearing at the Magistrate's Court House at \_\_\_\_\_, on \_\_\_\_\_, the day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Clerk of the Stipendiary Magistrate's Court.

To the appellant, \_\_\_\_\_, of \_\_\_\_\_,  
and to Mr. \_\_\_\_\_, an Inspector  
under "The Factories Act, 1901."

## Form J.

"The Factories Act, 1901," Section 64.

GENERAL LOCAL REPORT OF INSPECTOR.

Number of Factories in Local District.		Males.	Females.	Overtime.	Acci- dents.	Prose- cutions.	Permits.
	Number of Males under 16 Years employed.						
	Number of Males over 16 Years employed.						
	Number of Females under 16 Years employed.						
	Number of Females over 16 Years employed.						
	Total of all Hands, Male and Female, employed.						
	Number of Women of all Ages and Boys under 16 Years who worked Overtime.						
	Number of Males over 16 Years who worked Overtime.						
	Total Number of all who worked Overtime.						
	Number of Hours of Overtime worked during the Year by Women of all Ages, and Boys under 16 Years.						
	Number of Hours of Overtime worked during the Year by Males over 16 Years.						
	Total Number of Hours of Over- time of all Hands.						
	Number of Accidents reported to Inspector.						
	Prosecutions under the Factories Act (only) during the Year.						
	Number of Permits given for Males under 16 Years of Age.						
	Number of Permits given for Females under 16 Years of Age.						

I certify that the above is a true statement, to the best of my knowledge and belief, for the year ending 31st March, 19 .

Date: \_\_\_\_\_, 19\_\_.

Inspector of Factories, Station.

As witness the hand of His Excellency the Governor, this  
eighteenth day of December, one thousand nine hundred  
and one.

R. J. SEDDON,

Minister of Labour.

[Extract from *New Zealand Gazette*, 6th February, 1902.]

# SANITARY NOTICE UNDER "THE FACTORIES ACT, 1901."

Department of Labour,  
Wellington, 1st February, 1902.

I, WILLIAM HALL-JONES, acting for and on behalf of the Minister of Labour, in pursuance and exercise of the power vested in me by section 46 of "The Factories Act, 1901," do hereby declare that the provisions of subsections (1) and (2) of section 42 of the said Act shall apply to the classes or descriptions of factories mentioned in the Schedule hereto, with the following modifications, that is to say,—

1. The cleansing prescribed by the said subsection (1) shall be performed once at least within fourteen months from the date of the last preceding cleansing.

2. Where the walls of any room in the factory are papered, the Inspector shall decide as to the time when they shall be repapered.

## SCHEDULE.

Bag-making.  
Basket and perambulator making.  
Bootmaking.  
Brush and broom making.  
Cabinet-furniture making, and upholstering.  
Candle and soap making.  
Chemical works (packing, &c.).  
Cycle and jobbing engineering.  
Dentistry (mechanical).  
Dressmaking and millinery.  
Dyeing, cleaning, and clothes-repairing.  
Engravers and die-sinkers.  
Fellmongering-works.  
Flock-making.  
Hat and cap making  
Knitting-works.  
Laundries.  
Photographers.  
Picture-frame making.  
Plumbing and tinsmithing works.

Portmanteau and travelling-bag making.  
Printing, bookbinding, and lithography.  
Saddle and harness making.  
Shirtmaking.  
Tailoring.  
Tanneries.  
Tea-packing.  
Waterproof-clothing making.  
Woollen-mills.

WM. HALL-JONES.

For Minister of Labour.

---

[Extract from *New Zealand Gazette*, 1st December, 1905.]

## REGULATIONS UNDER "THE FACTORIES ACT, 1901."

---

PLUNKET, Governor.

IN pursuance and exercise of the powers conferred on him by "The Factories Act, 1901," and its amendments, His Excellency the Governor of the Colony of New Zealand doth hereby make the regulations hereinafter set forth, and doth hereby declare that such regulations shall come into force on the date of the gazetting thereof.

---

### REGULATIONS.

#### WARRANT FOR OVERTIME.

1. The warrant for overtime, under section two of "The Factories Amendment Act, 1902," shall be in the form marked "K" in the Schedule hereto.

#### CERTIFICATE OF EMPLOYMENT.

2. The certificate of employment, under section three of "The Factories Act Amendment Act, 1905," shall be in the form marked "L" in the Schedule hereto.

#### REGISTER OF PERSONS EMPLOYED.

3. The book to be kept by the occupier of a factory, under the said section three, shall be in the form marked "M" in the Schedule hereto.

## SCHEDULE.

## Form K.

“Factories Amendment Act, 1902,” Section 2.

## OVERTIME WARRANT.

M.....

PERMISSION is granted to the undermentioned persons to work overtime  
 from p.m. till p.m. on , the instant.  
 ....., Inspector.

## Form L.

“Factories Act Amendment Act, 1905,” Section 3.

## CERTIFICATE OF EMPLOYMENT.

Name of Person employed.	Name of Employer.	Trade.	Period of Employment.	Length of Service.	Remarks.
			From to	Yrs. Mths. Wks.	

This is to certify that has been employed in the factory of  
 during the period set out in the above Schedule.

Dated this day of , 190 .

..... Occupier.

[NOTE.—This certificate must be retained by the employee, and filled up by each employer when leaving.]

## Form M.

REGISTER OF PERSONS EMPLOYED BY [*Name*], [*Address*].

Full Name of Person employed.	Trade.	Period of Employment.	Length of Service.	Date of Issue of Certificate of Employment.	Remarks.
		From to	Yrs. Mths. Wks.		

As witness the hand of His Excellency the Governor, this  
 twenty-third day of November, one thousand nine hundred  
 and five.

ALBERT PITT,  
 For Minister of Labour.

Regulations under "The Factories Act, 1901," and its amendments, dated the 20th day of February, 1908 (prescribing procedure for claiming compensation for accidents), revoked. See regulations, May, 1909, below.

Amending regulations under "The Factories Act, 1901," and its amendments, dated the 20th day of February, 1908 (prescribing form of notice under section 17), revoked. See regulations, May, 1909, below.

[Extract from *New Zealand Gazette*.]

### \* REGULATIONS UNDER "THE FACTORIES ACT, 1908."

, Governor.

IN pursuance and exercise of the powers and authority conferred by "The Factories Act, 1908," His Excellency the Governor of the Dominion of New Zealand doth hereby revoke the regulations made under "The Factories Act, 1901," on the twentieth day of February, one thousand nine hundred and eight, and published in the *Gazette* of the twenty-seventh day of February then instant, prescribing the form of statement of procedure required to be observed in order to claim compensation for accidents, and in lieu thereof doth hereby make the regulations and prescribe the form of statement hereinafter set forth.

#### REGULATIONS.

THE occupier of every factory shall at all times cause to be exhibited and maintained in some conspicuous place at or near the entrance of the factory, and in such other parts thereof as the Inspector from time to time directs, and in such a position as to be easily read by the persons employed in the factory, a statement in the following form :—

STATEMENT SHOWING THE PROCEDURE FOR THE PURPOSE OF CLAIMING COMPENSATION UNDER "THE WORKERS' COMPENSATION ACT, 1908."

##### 1. *Notice of Accident.*

###### Section 24.

To be in writing and served on the employer, or one of them, if there is more than one, by delivering or posting it in a registered letter, as soon as practicable, giving—

- (1.) Name and address of person injured,
- (2.) Cause of injury, and
- (3.) Date and place thereof.

(Notice is not required in case of the death of the worker.)

\* These regulations are pending His Excellency the Governor's signature.

2. *Claim for Compensation.*

## Section 21.

If the claim is not settled by agreement, proceedings must be commenced by the issue of a writ of summons by the worker (Form No. 3), or, in the case of death, by his representative on behalf of the dependants, or by the dependants, or any one or more of them on behalf of all of them, in accordance with the regulations.

## Section 25.

Action must be commenced within six months after the date of accident, or, in case of death, within six months after date of death, or if any payment of compensation or damages is made by the employer, or if he signs an admission of liability, action may be commenced within six months from the date thereof.

Failure to commence action within the specified time shall be no bar, however, if the Court is of opinion that there has been reasonable cause for same.

As witness the hand of His Excellency the Governor, this  
day of May, one thousand nine hundred and  
nine.

Minister of Labour.

NOTE.—A copy of the regulations and the necessary forms can be obtained from the nearest Clerk of Awards or Inspector of Factories.

---

[Extract from *New Zealand Gazette*.]

\* REGULATIONS UNDER “THE FACTORIES ACT, 1908.”

---

, Governor.

IN pursuance and exercise of the power and authority conferred by “The Factories Act, 1908.” His Excellency the Governor of the Dominion of New Zealand doth hereby revoke Regulation No. 6 made under “The Factories Act, 1901,” and its amendments, on the twentieth day of February, one thousand nine hundred and eight, and published in the *New Zealand Gazette* of the twenty-seventh day of February, one thousand nine hundred and eight, and in lieu thereof doth hereby make the regulation following, viz. :—

6. The notice required to be exhibited under section 17 of “The Factories Act, 1908,” shall be in the form marked E in the Schedule hereto.

\* These regulations are pending His Excellency the Governor's signature.

## SCHEDULE.

Form E.

[Coat-of-arms.]

NEW ZEALAND.

“The Factories Act, 1908,” Section 14.

NAME and address of the Inspector of the district :

Name and address of the medical authority (if any) for the district :

Official address of local authority :

\* Holidays of factory : Christmas Day, New Year's Day, Good Friday, Easter Monday, Labour Day, the Sovereign's birthday ; and also every Saturday (or other day as may be decided under section 36) from 1 o'clock p.m.

Working-hours of factory :

Statement of procedure required to be observed in order to claim compensation under “The Workers' Compensation Act.” (See form of statement attached hereto.)

, Occupier of Factory.

NOTE.—“The Factories Act, 1908,” section 38, provides as follows :—

“(1.) Wages for each whole or half holiday shall, in the case of each boy under eighteen years of age or woman, be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day thereafter.

“(2.) This section shall apply to every boy under eighteen years of age or woman who is paid by time-wages, whatever the time, and has been employed in the factory for at least twenty days during the four weeks next preceding the whole holiday, or for at least five days during the month next preceding the half-holiday, whether such employment has been on consecutive days or not, and whether the person employed has been continuously in the service of the occupier or not.”

\* For boys under eighteen years of age and women.

# STATEMENT SHOWING THE PROCEDURE FOR THE PURPOSE OF CLAIMING COMPENSATION UNDER “THE WORKERS' COMPENSATION ACT, 1908.”

## 1. Notice of Accident.

### Section 24.

To be in writing, and served on the employer or one of them, if there is more than one, by delivering or posting it in a registered letter, as soon as practicable, giving—

- (1.) Name and address of person injured,
- (2.) Cause of injury, and
- (3.) Date and place thereof.

(Notice is not required in the case of the death of the worker.)

## 2. Claim for Compensation.

### Sections 21 and 25.

If the claim is not settled by agreement, proceedings must be commenced by the issue of a writ of summons (Form No. 3)\* by the worker, or, in the case of

\* NOTE.—A copy of the regulations and the necessary forms can be obtained from the nearest Clerk of Awards or Inspector of Factories.



death, by his representative on behalf of the dependants, or by the dependants, or any one or more of them on behalf of all of them, in accordance with the regulations.

Action must be commenced within six months after the date of accident, or, in case of death, within six months after date of death, or if any payment of compensation or damage is made by the employer, or if he signs an admission of liability, action may be commenced within six months from the date thereof.

Failure to commence action within the specified time shall be no bar, however, if the Court is of opinion that there has been reasonable cause for same.

As witness the hand of His Excellency the Governor, this  
day of May, one thousand nine hundred and  
nine.

Minister of Labour.

---

[Extract from Supplement to *New Zealand Gazette*, 24th December, 1908.]

## REGULATIONS UNDER "THE INDUSTRIAL CONCILIATION AND ARBITRATION ACT, 1908," AND ITS AMENDMENTS.

---

PLUNKET, Governor.

### ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this twenty-fourth day of December, 1908.

Present :

THE RIGHT HONOURABLE SIR J. G. WARD, K.C.M.G., PRESIDING IN  
COUNCIL.

PURSUANT to and in exercise of the powers in this behalf conferred upon him by "The Industrial Conciliation and Arbitration Act, 1908," and "The Industrial Conciliation and Arbitration Amendment Act, 1908" (hereinafter called "the said Acts") His Excellency the Governor of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby revoke the regulations made under "The Industrial Conciliation and Arbitration Act, 1900," on the sixth day of March, one thousand nine hundred and one, and also all amendments of such regu-

lations heretofore made, and in lieu thereof doth hereby, for the purposes of the said Acts, make the following regulations, that is to say :—

#### INDUSTRIAL UNIONS AND ASSOCIATIONS, REGISTRATION, ETC.

1. Application to the Registrar for registration as an industrial union or association shall be in the Form No. 1 or 2 in the Schedule hereto, as the case may be (sec. 5).

2. The certificate of registration and incorporation of an industrial union or association shall be in the Form No. 3 (sec. 6).

3. An appeal to the Court against the refusal of the Registrar to register an industrial union or association shall be brought by a notice in the Form No. 4, which shall be filed, in duplicate, with the Clerk of Awards for the industrial district. The Clerk shall forward one copy of the notice to the Registrar, who shall transmit to the Clerk all papers in reference thereto, and thereupon the appeal shall be deemed to be before the Court (sec. 11).

4. The application to the Registrar for registration of a branch office of a registered industrial union or association shall be in the Form No. 5 (sec. 14).

5. The notification to the Registrar of change of situation of registered office (or branch office) of industrial union or association shall be in the form No. 6 (sec. 14).

6. The yearly lists of members and officers of industrial unions and associations to be forwarded to the Registrar in January of each year shall be in the Form No. 7 or 8, as the case may be (sec. 17).

7. The statutory declaration verifying the yearly list of members and officers of an industrial union, or association, shall be in the form No. 9 (sec. 17).

8. The application to the Registrar for cancellation of registration of an industrial union, or association, shall be in the Form No. 10 (sec. 21).

#### INDUSTRIAL AGREEMENTS.

9. Industrial Agreements shall be drawn up as required by section 25 of the Act, and a duplicate original shall be filed with the Clerk of Awards in the industrial district in which the agreement is made.

Such duplicates shall be numbered consecutively in the order in which they are filed, and the Clerk shall keep in his office a register of all industrial agreements, which shall set forth the date of agreement, date of filing, and other particulars thereof (sec. 26).

10. A concurrence in an industrial agreement shall be in the Form No. 11, and shall be filed with the Clerk of Awards for the district.

Such concurrence shall in the case of an industrial union or association be executed under seal, and in the case of an employer shall be signed by him, and shall specify his address and occupation (sec. 27).

11. Application to the Court of Arbitration for the extension of an industrial agreement to all employers in an industrial district shall be in the Form No. 12, and shall be filed with the Clerk of Awards for the district, together with as many copies thereof as he may require (Amend. Act, 1908, sec. 67).

12. Notice to the parties of such application shall be in the Form No. 13 (Amend. Act, 1908, sec. 67).

#### COUNCILS OF CONCILIATION.

13. Application for the reference of an industrial dispute to a Council of Conciliation (hereinafter called "a reference"), together with recommendations for appointment of Assessors, shall be in the Form No. 14, and shall be forwarded to the Clerk of Awards for the district (together with as many copies as there are other parties to the dispute) for transmission to the Commissioner (Amend. Act, 1908, sec. 30).

14. The ballot of the members of an industrial union approving of the reference of an industrial dispute to a Council of Conciliation shall be in the Form No. 15.

The certificate of the Chairman of such union, as evidence of compliance with section 107 of the Act, shall be in the Form No. 16, and shall accompany the application to the Council (sec. 107).

15. The certificate of the chairman of an industrial association, as evidence of compliance with section 107 of the Act, shall be in the Form No. 17, and shall accompany the application to the Council (sec. 107).

16. The Clerk shall indorse the date of filing on the original of each reference. All references shall be numbered consecutively in the order in which they are filed, and all documents subsequently filed, lodged, or issued in the matter of the reference shall bear the same number as the reference to which they relate.

17. The citation of the respondents to attend at the hearing of the dispute and in the meantime to recommend qualified persons for appointment as Assessors shall be in the Form No. 18 (Amend. Act, 1908, sec. 31).

18. The recommendation of respondent's Assessors in an industrial dispute shall be in the Form No. 19 (Amend. Act, 1908, sec. 32).

19. The appointment of Assessors by the Commissioner shall be in the Form No. 20, a copy of which shall be forwarded by the Clerk of Awards to each of them (Amend. Act, 1908, sec. 32).

20. The Commissioner shall, through the Clerk of Awards, convene a meeting of the Council of Conciliation by forwarding to each member a notice in the Form No. 21. The Clerk shall also post a copy of the said notice by registered letter addressed to each party to the reference.

21. An employer, party to a dispute, who desires to appear by an agent shall sign and file in the office of the Clerk a warrant in the Form No. 22 (Amend. Act, 1908, sec. 36).

22. If any industrial union, or association, party to a dispute, desires to appear before the Council by persons other than its chairman or secretary, it may appoint not more than three persons by warrant in the Form No. 23 (Amend. Act, 1908, sec. 36).

23. The nomination of an expert to sit with the members of a Council or the Court shall be in the Form No. 24, and shall be lodged with the Clerk. Every expert so nominated shall by writing under his hand, either on the nomination-paper or separate therefrom, signify his consent to act.

If any expert dies, resigns, or refuses to act, the party nominating him may forthwith nominate another expert in his place: Provided that the proceedings shall not abate or be affected by any such vacancy. The party or parties nominating an expert shall pay his fee (sec. 112).

24. The record of the proceedings of a Council of Conciliation shall show the days, hours, &c., during which the Council sits, the attendance of its members, together with particulars of the disputes, or other business dealt with.

In certifying to vouchers for payment of fees and expenses of members of the Council, the Commissioner, or Clerk, shall refer and be guided by such record (Amend. Act, 1908, sec. 35).

25. Application to join or strike out parties to a dispute before the Council shall be in the Form No. 25.

The applicant shall lodge as many copies as there are parties with the Clerk, who shall post by registered letter a copy of such application to each party (Amend. Act, 1908, sec. 38).

26. The notification by the Commissioner to the Clerk of Awards of failure to settle industrial dispute shall be in the Form No. 26 (Amend. Act, 1908, sec. 42).

27. If a recommendation of the Council is made it shall be in the Form No. 27 (Amend. Act, 1908, sec. 43).

28. The recommendations of a Council of Conciliation shall be published by the Clerk of Awards by handing a copy of same to the local Press.

#### WITNESSES.

29. A summons to a witness to give evidence before a Council of Conciliation, or the Court of Arbitration, shall be in duplicate in the Form No. 28.

The Clerk shall sign both duplicates, retaining one, and issuing the other for service by the applicant. Service shall be effected by delivering a copy to the witness, and at the same time producing the original for his inspection, if so desired.

Any number of witnesses may be included in one summons, but the copy served need contain only the name of the witness on whom it is served. It shall be sealed and signed by the Clerk (sec. 83, principal Act ; and Amend. Act, 1908, sec. 35).

#### THE COURT OF ARBITRATION.

30. The recommendations of industrial unions of persons for appointment as members of the Court shall be in the Form No. 29 (sec. 66).

31. The reference of an industrial dispute to the Court for settlement shall be in the Form No. 30, and shall be transmitted to the Registrar of the Court by the Clerk of Awards. The Clerk shall file a copy of the reference in his office, and shall indorse on same the date of filing (sec. 77, principal Act ; and Amend. Act, 1908, sec. 46).

32. All papers and proceedings before the Court shall bear the same number as before the Council, and be similarly intitled, with the addition of the words " Before the Court of Arbitration."

33. The Registrar of the Court shall attend all sittings thereof. He shall keep the minutes of proceedings and the records of the Court, and perform all such duties and exercise all such functions as the Court may direct.

In the absence of the Registrar, the Clerk of Awards for the district shall act in his stead, and perform the functions and duties of the Registrar.

Whenever the Deputy Registrar of the Supreme Court is also Clerk of Awards, and is absent from the office of that Court, the person for the time being acting as Deputy Registrar shall also act as the Clerk (secs. 34 and 75).

34. The Clerk of Awards for the district shall send three clear days' notice of the sittings of the Court to deal with any dispute referred to it to the parties thereto, and to each member of the Court, and such notice shall be in the form No. 31 (sec. 79).

35. Notice of consent by other parties to the dispute to the appearance of a barrister or solicitor before the Court of Arbitration shall be in the Form No. 32 (sec. 80).

36. Application to amend an award made by any party bound by such award shall be in the Form No. 33, and filed with the Clerk for the district, together with as many copies thereof as there are other parties to the dispute (sec. 93).

37. Notice to the parties to the award of such application shall be in the Form No. 34, and shall be served by the Clerk, together with a copy of the application (sec. 93).

38. Application to extend an award to other parties connected with or engaged in the same industry, or to add parties to an award, shall be in the Form No. 35 or 36, as the case may be, and shall be filed with the Clerk, together with as many copies as he may require (sec. 93).

39. Notice to the parties of such application shall be in the Form No. 37 or 38, as the case may be, and shall be served by the Clerk, together with a copy of the application and a copy of the award (sec. 93).

40. Application to the Court by any of the parties to an award to fix and determine what shall constitute a breach of such award shall be in the Form No. 39, and shall be filed with the Clerk (sec. 97).

41. Application for an underrate workers' permit, notice to the industrial union of workers of the hearing of such application, and the permit, if issued, shall be in the Forms Nos. 40, 41, and 42. A report of the hearing of the application (together with a copy of the permit, if issued) shall be forwarded by the Inspector conducting same to the Chief Inspector (sec. 123, principal Act; and Amend. Act, 1908, sec. 65).

42. The wages and overtime book to be kept by every employer bound by an award or industrial agreement shall be in the Form No. 43, or such other similar form as approved by an Inspector of Awards (Amend. Act, 1908, sec. 58).

43. The certificate of age granted by an official of the Labour Department shall be in the Form No. 44. The Inspector shall be satisfied by certificate from the Registrar of Births, or by a statutory declaration made by any person competent to depose to the fact. Such certificate shall be granted without fee, and every such statutory declaration shall be exempt from stamp duty (Amend. Act, 1908, sec. 62).

\* 44. When an award or industrial agreement is made which applies to a factory or shop, the Inspector of Awards shall deliver personally, or send by letter-post, a notice to the occupier thereof in the Form No. 45, requiring him to affix a printed or typewritten copy of such award or industrial agreement in some conspicuous place at or near the entrance of the factory or shop (Amend. Act, 1908, sec. 63).

#### ACTION FOR STRIKES, LOCKOUTS, BREACHES OF AWARDS, AND INDUSTRIAL AGREEMENTS.

45. An action in the Magistrate's Court to recover a penalty or penalties for any breach or breaches of an award or an industrial agreement, or for an offence under sections 5 or 6 of "The Industrial Conciliation and Arbitration Amendment Act, 1908," shall be commenced by filing a plaint-note in the Form No. 46 in the office of the Magistrate's Court mentioned in section 14 of the said Amendment Act of 1908.

Such plaint-note shall be accompanied by a statement of claim (in duplicate) in the Form No. 47, together with one copy thereof for each defendant in the action.

The statement of claim shall give such particulars of time, place, amount, names of persons, and dates of instruments, and other circumstances in connection with the alleged breach or offence, as will be sufficient to inform the defendant of the cause of action.

The following are illustrations of how the particulars of an alleged breach or offence should be stated in the statement of claim:—

- (a.) The defendant during the months of January and February, 1908, employed one A. B. as a carpenter, and paid him only 1s. per hour, instead of 1s. 4d. per hour as required by the said award.
- (b.) The defendant during the period from the                      day of                      , 1908, to the                      day of                      , 1908, did have one C. D. in his employment as an apprentice without having had him properly indentured as required by the said award.
- (c.) The defendant during the period from the                      day of                      , 1908, to the                      day of                      , 1908, did fail to provide proper sanitary conveniences for the carpenters employed by him in the erection of a building in Molesworth Street, Wellington.
- (d.) The defendant on the                      day of                      , 1908, employed as a carpenter one E. F., who was not a member of the said union, when the following members of the said

\* Amended by Regulations dated 20th April, 1909.

union, who were equally qualified with the said E. F. to do the particular work required to be done, were ready and willing to undertake the said work — viz., G. H. and K. L.

(e.) The defendant on the \_\_\_\_\_ day of \_\_\_\_\_, 1908, became a party to a strike by the workers engaged in the bread-baking industry in the City of Wellington.

(f.) The defendant on the \_\_\_\_\_ day of \_\_\_\_\_, 1908, became a party to a lockout in the bread-baking industry in the City of Wellington (Amend. Act, 1908, secs. 5, 6, and 14).

46. The summons to defendant to be issued by the Clerk of the Court shall be in the Form No. 48 (Amend. Act, 1908, secs. 5, 6, and 14).

47. An action in the Court of Arbitration by an Inspector of Awards to recover a penalty or penalties for any breach or breaches of an award or an industrial agreement, or for an offence under sections 5 or 6 of "The Industrial Conciliation and Arbitration Amendment Act, 1908," shall be commenced by lodging with the Clerk of Awards in the industrial district in which the cause of action shall have arisen a statement of claim in the Form No. 49, and signed by the plaintiff or his solicitor.

Five copies shall be filed : three for the members of the Court, one for service on the defendant, and one for filing.

When a date shall have been fixed by the Judge of the Court of Arbitration for the hearing of the action, the Clerk of Awards shall send to each defendant a notice in the Form No. 50, and there shall be annexed to such notice a copy of the statement of claim in the action. The plaintiff shall supply the copies of the statement of claim to be annexed to the notice (Amend. Act, 1908, sec. 21).

48. Where the defendant delivers a notice of intention to defend to the Clerk of the Court, or to the Clerk of Awards, as the case may be, such Clerk shall give notice thereof to the plaintiff in the Form No. 51 (Amend. Act, 1908, sec. 15).

49. The notice by Clerk of the Court to the Inspector of Awards of judgment in any action taken shall be in Form No. 52 (Amend. Act, 1908, sec. 16).

50. When judgment is given in the Court of Arbitration in any action taken by an Inspector, a statement of the penalty and costs ordered shall be delivered by the Clerk of Awards to the Inspector in the Form No. 53 ; and when required the Registrar of the Court shall issue a certificate of such penalty and costs in the Form No. 54, for filing in the Magistrate's Court (Amend. Act, 1908, sec. 21).



51. On payment of the penalty into Court, the Clerk shall pay the amount into the Public Account, and forward bank receipt for same to the nearest Inspector of Awards, together with a notice in the Form No. 55 (Amend. Act, 1908, sec. 17).

52. The notice by Clerk of the Court (or Registrar of the Arbitration Court) of suspension of registration of an industrial union or association shall be in the Form No. 56, and shall be sent to the Registrar of Industrial Unions, and to the defendant union or association (Amend. Act, 1908, sec. 10).

53. Application to the Magistrate's Court for an order of attachment of wages for the recovery of a penalty and costs shall be in the Form No. 57, and shall be made by the plaintiff and filed with the Clerk of the Court (Amend. Act, 1908, sec. 20).

54. In all other proceedings in respect of any such penalty not hereinbefore expressly provided for, the procedure and forms prescribed under "The Magistrates' Courts Act, 1908," shall be followed.

55. Action for summary conviction before a Magistrate for a strike in the industries specified in section 9 of the Amendment Act, 1908, shall be taken, as provided under "The Justices of the Peace Act, 1908."

#### FEEs PAYABLE TO CLERKS.

56. The following fees shall be payable to the Clerk in respect of the matters referred to, and (in the first instance) by the person or party on whose application the matter referred to is done (sec. 127):—

	s.	d.
Filing industrial agreement .. ..	5	0
Filing application to Council or Court .. ..	3	0
Filing any other document .. ..	3	0
Issue of a summons (including the seal of Court)	3	0
Affixing seal of Court .. ..	3	0
Certified copy of report or recommendation of Council or of awards or order, &c., of the Court	1	0
In procedure for obtaining evidence at a distance: The fees prescribed under "The Magistrates' Courts Act, 1908."		

All such fees shall be prepaid in stamps.

#### TRAVELLING-EXPENSES OF MEMBERS OF COURT AND COUNCILS.

57. The travelling-expenses payable to the nominated members of the Court of Arbitration and to the Conciliation Commissioners and Assessors of Councils of Conciliation shall be as follows:—

When engaged or in attendance on the business of the Court, or Councils, or in travelling to and from the place of sitting, each nomi-

nated member of the Court shall be paid as travelling-expenses the sum of £1 for each day, each Commissioner the sum of 15s. for each day, and each Assessor the sum of 10s. for each day; but such allowance for expenses shall be paid only when he is necessarily absent from his home at night. Cost of transport by land or sea shall be defrayed by the Government (sec. 127).

#### FEES PAYABLE TO PERSONS ACTING AS COMMISSIONERS.

58. The fees payable to persons appointed to act as Commissioners under section 29, (8), of "The Industrial Conciliation and Arbitration Amendment Act, 1908," shall be £2 2s. per day, and to Assessors of Councils of Conciliation under section 33, (2), shall be £1 1s. per day.

(Sec. 5.)

[Form I (1).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### APPLICATION FOR REGISTRATION OF INDUSTRIAL UNION.

To the Registrar of Industrial Unions, Wellington.

WE hereby make application for the registration under the above Act of a society as an industrial union under the name of "The [*Name to indicate the locality and industry or industries*] Union of [*'Employers' or 'Workers,' as the case may be.*]"

We enclose herewith,—

- (a.) A list of members and officers of the society [*Not less than three persons in case of employers' union, and fifteen in case of workers' union.*]
- (b.) Two copies of the rules of the society.
- (c.) A copy of a resolution passed by a majority of the members present at a general meeting of the society specially called in accordance with the rules for that purpose only, and desiring registration as an industrial union.

Dated at                      , this                      day of                      , 190                      .  
[*Two or more officers.*]

.....  
Of the said union.

.....  
Of the said union.

(Sec. 23.)

[Form I (2).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### APPLICATION FOR REGISTRATION OF INDUSTRIAL ASSOCIATION.

To the Registrar of Industrial Unions, Wellington.

WE hereby make application for the registration under the above Act of as an industrial association, under the name of "The [*Name to indicate locality*] Industrial Association of [*'Employers' or 'Workers,' as the case may be.*]"

We enclose herewith,—

- (a.) A list of the industrial unions constituting the association.

- (b.) A list of officers.
- (c.) Two copies of the rules of the association.
- (d.) A copy of a resolution passed by a majority of the unions represented at a general meeting of the association specially called in accordance with the rules for that purpose only, and desiring registration as an industrial association.

Dated at , this day of , 190 .

[Two or more officers.]

.....  
Of the said Association.

.....  
Of the said Association.

[Form I (3).]

(Sec. 6.)

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

No.

NEW ZEALAND.

CERTIFICATE OF REGISTRATION AND INCORPORATION.

THIS is to certify that on the day of , 190 , the was duly registered and incorporated as an industrial under the style of .

Dated at Wellington, this day of , 190 .

.....  
Registrar of Industrial Unions.

No. (Sec. 6.)

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

No.

NEW ZEALAND.

CERTIFICATE OF REGISTRATION AND INCORPORATION.

THIS is to certify that on the day of , 190 , the was duly registered and incorporated as an industrial under the style of .

Dated at Wellington, this day of , 190 .

.....  
Registrar of Industrial Unions.

Name :  
Date registered :

(Sec. 11.)

[Form I (4).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

# APPEAL FROM REFUSAL TO REGISTER AN INDUSTRIAL UNION OR ASSOCIATION.

To the Clerk of Awards at .

THE Industrial Union [or Association] of , being dissatisfied with the decision of the Registrar in refusing to register the said industrial union [or association], hereby appeals to the Court to make inquiry, on the ground that [State reasons—"owing to distance," "diversity of interest," or other substantial reason]. It will be more convenient for the members to register separately than to join an existing union [or association].

Dated at , this day of , 190 .

.....  
[Office held],  
of the said Industrial Union (or Association).

.....  
[Office held],  
of the said Industrial Union (or Association).

(Sec. 14.)

[Form I (5).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

# APPLICATION FOR REGISTRATION OF BRANCH OFFICE OF INDUSTRIAL UNION [or ASSOCIATION].

To the Registrar of Industrial Unions, Wellington.

I HEREBY make application for the registration under the above Act of a branch office of the [Registered name of the industrial union or association] situate at [Specify situation of branch office], in the Industrial District.

Dated at , this day of , 190 .

[Seal.]

.....  
Chairman [or Secretary].

(Sec. 14.)

[Form I (6).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

# NOTIFICATION OF CHANGE OF REGISTERED OFFICE [or BRANCH OFFICE] OF INDUSTRIAL UNION [or ASSOCIATION].

To the Registrar of Industrial Unions, Wellington.

I BEG to notify you that the committee of management of the Union [or Association] of has changed the registered office, which is now situate at .

Dated this day of , 190 .

.....  
Secretary.

(Sec. 17.)

[Form I (7).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

Total number of members : .

## YEARLY LIST.

Yearly List of Members and Officers (including Trustees) of the Industrial Union of as on the 31st December, 190 . Indus

Full Name.	Address.
<i>Officers.</i>	
, President ..	
, Vice-President ..	
“ ..	
, Secretary ..	
, Trustee ..	
“ ..	
“ ..	
, Auditor ..	
“ ..	
, Committeeman ..	
“ ..	
“ ..	
“ ..	
“ ..	
“ ..	
“ ..	
“ ..	
“ ..	

(Sec. 17.—A.)

[Form I (7A).

Under “The Industrial Conciliation and Arbitration Act, 1908,” and its Amendments.

## YEARLY LIST.

Yearly List of Members and Officers (including Trustees) of the Industrial Union of as on the 31st December, 190 —continued.

Full Name.	Address.
<i>Members other than Officers—continued.</i>	

This is the list, marked “A,” referred to in the annexed declaration of  
 , Chairman [or Secretary], made this day of , 190 ,  
 before me,—

.....  
 Solicitor [or Justice of the Peace].

Situation of registered office of union : .

(Sec. 17.—A.)

[Form I (8).

## NEW ZEALAND.

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## YEARLY LIST.

Yearly List of Unions constituting the Association of , together with the Officers and Trustees, as on the 31st December, 190 .

Full Name.	Address.
<i>Officers of Association.</i>	
, President ..	
, Vice-President ..	
" ..	
, Secretary ..	
, Trustee ..	
" ..	
" ..	
, Auditor ..	
" ..	
, Committeeman ..	
" ..	
" ..	
" ..	
" ..	
" ..	
" ..	
" ..	
" ..	
<i>Unions constituting Association.</i>	

This is the list, marked "A," referred to in the annexed declaration of , Chairman [or Secretary], made this day of , 190 , before me,—

.....  
Solicitor [or Justice of the Peace].

Address of registered office of association: .

(Sec. 17.)

[Form I (9).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

STATUTORY DECLARATION AS TO YEARLY LIST OF MEMBERS AND OFFICERS OF INDUSTRIAL UNION [or ASSOCIATION].

I, [Name in full], of [Address and occupation], do solemnly and sincerely declare as follows:—

(1.) That I am the Chairman [or Secretary] of the [Full name of union or association].

(2.) (a.) Union.—That the list hereto annexed and marked "A" is a full and correct list of the members whose subscriptions are not more than twelve months in arrear, and of the officers (including trustees) of such union, as on the 31st day of December, 190 .

*Or (2.) (b.) Association.*—That the list hereto annexed and marked “A” is a full and correct list of the industrial unions constituting such association, and of the officers (including trustees) of such association, as on the 31st day of December, 190 .

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of “The Justices of the Peace Act, 1908.”

Declared at [Name of town], this                      day of January, 190 , before me,—

(Signed)

.....  
A Justice of the Peace for New Zealand  
[or a Solicitor of the Supreme Court  
of New Zealand].

(Sec. 21.)

[Form I (10).]

Under “The Industrial Conciliation and Arbitration Act, 1908,” and its Amendments.

APPLICATION FOR CANCELLATION OF REGISTRATION OF INDUSTRIAL UNION  
[or ASSOCIATION].

To the Registrar of Industrial Unions, Wellington.

WE hereby make application for the cancellation of the registration of the  
[Registered name of the industrial union or association].

We enclose herewith,—

(a.) The certificate of registration.

(b.) Evidence that cancellation is desired by a majority of the members thereof.

1. Total present membership : .
2. Number present at meeting : .
3. Number voting in favour of cancellation : .

Dated at                      , this                      day of                      , 190 .

[Seal.]

.....  
[Office held.]

.....  
[Office held.]

(Sec. 27.)

[Form I (11).]

Under “The Industrial Conciliation and Arbitration Act, 1908,” and its Amendments.

NOTICE OF CONCURRENCE IN AN INDUSTRIAL AGREEMENT.

To the Clerk of Awards at .

TAKE notice that I [we], the undersigned, hereby signify my [our] concurrence in the industrial agreement dated the                      day of                      , 190 , made between                      , and filed at your office as No.                      .

Dated at                      , this                      day of                      , 190 .

(Signatures.)

(Amend. Act, 1908, sec. 67.)

[Form I (12).]

Under “The Industrial Conciliation and Arbitration Act, 1908,” and its Amendments.

APPLICATION FOR ORDER OF THE COURT OF ARBITRATION EXTENDING AN INDUSTRIAL AGREEMENT UNDER SECTION 67 OF THE AMENDMENT ACT, 1908.

To the Clerk of Awards at .

I [or we], the undersigned, party to the                      Industrial Agreement, dated                      , 190 , and filed with the Clerk of Awards at                      , hereby make

application for an order extending the operation of that agreement to all employers in the industrial district who are now or may at any time hereafter be engaged in the industry to which the said agreement relates.

Dated at , this day of , 190 .

(Signatures.)

(Amend. Act, 1908, sec. 67.)

[Form I (13).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### NOTICE OF APPLICATION TO EXTEND INDUSTRIAL AGREEMENT.

In the Industrial District.

TAKE notice that an application to extend the Industrial Agreement, dated , to all employers in the industrial district who are now or may at any time hereafter be engaged in the industry to which the said agreement relates has been made by one of the parties thereto or one of the persons bound thereby.

Dated at , this day of , 190 .

.....  
Clerk of Awards.

(Amend. Act, 1908, sec. 30.)

[Form I (14)]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### APPLICATION THAT INDUSTRIAL DISPUTE BE HEARD BY A COUNCIL OF CONCILIATION.

To the Conciliation Commissioner at .

AN industrial dispute having arisen between [*Name of union, association, or employer, together with any other unions, associations, or employers subsequently joined*] and [*Name of union, association, or employer, together with any other unions, associations, or employers subsequently joined*], and the parties thereto having failed to satisfactorily adjust such dispute, application is hereby made that the dispute be heard by a Council of Conciliation, for which [*Not more than three Assessors*] persons whose names are given below are recommended for appointment as Assessors. In accordance with section 107 of the Act, I attach certificate of Chairman of the special meeting that the reference has been approved by the members.

Dated at , this day of , 190 .

Signature : [*Industrial union, association, or employer.*]

#### *Persons recommended for Appointment as Assessors.*

	Name.	Address.	Occupation.*
1.			
2.			
3.			

#### *General Statement of the Nature of the Dispute and Detailed Statement of Claims made.*

\* To be or have been *bona fide* engaged in the industry, except that the Commissioner may in special circumstances appoint one who is not so qualified.



(Sec. 107.)

[Form I (15).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## BALLOT-PAPER.

(For Reference of Industrial Dispute to Council of Conciliation.)

*Resolution.*—At a special meeting of the \_\_\_\_\_ Industrial Union of Workers held on the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_, of which you have had due notice, the following resolution was passed: [*Here set out resolution*].

It is required by the Act that the resolution be confirmed by a subsequent ballot of the members, and accordingly you are now requested to record your vote for or against the proposal in the following manner:—

If you are in favour of the above resolution strike out the word "No" opposite,

or

No. Yes.

If you are not in favour of the above resolution strike out the word "Yes" opposite.

N.B.—This ballot-paper should be returned to the undersigned on or before the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_.

Secretary :

Address :

\_\_\_\_\_, 190\_\_\_\_.

—

(Sec. 107.)

[Form I (16).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## CERTIFICATE OF CHAIRMAN OF UNION.

(For Reference of Industrial Dispute to Council of Conciliation.)

In the matter of an industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, and of a reference thereof for settlement.

THIS is to certify that I, \_\_\_\_\_, presided at a special meeting of the \_\_\_\_\_ Industrial Union of \_\_\_\_\_, duly constituted and convened in manner provided by the rules of the said union, and held on the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_.

That the meeting was convened by \_\_\_\_\_, a copy of which is attached hereto, marked "A," and a copy of which was posted to each member of the said union. [*Attach copy of circular, to be marked "A."*]

That the following resolution was passed at the said meeting :

That a copy of the said resolution, with ballot-papers for confirmation or otherwise, copy of which is attached hereto, marked "B," was posted to each member of the said union on the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_, returnable on or before the \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_. [*Attach copy of resolution, to be marked "B."*]

That the result of the ballot was the confirmation of the said resolution, voting for and \_\_\_\_\_ against such confirmation.

That the result of the ballot has been recorded in the minutes of the said union.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_.

.....

(Sec. 107.)

[Form I (17).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

CERTIFICATE OF CHAIRMAN OF INDUSTRIAL ASSOCIATION.

(For Reference of Industrial Dispute to Council.)

In the matter of an industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, and of a reference thereof for settlement.

THIS is to certify that I, \_\_\_\_\_, presided at a special meeting of the members of the governing body of the association, duly constituted and convened in manner provided by the rules of the said association, and held on the day of \_\_\_\_\_, 190 \_\_\_\_.

That the meeting was convened by \_\_\_\_\_, a copy of which is attached hereto, marked "A," and a copy of which was posted to each member. [*Attach copy of circular marked "A."*]

That the following resolution was passed at the said meeting: \_\_\_\_\_.

That the said resolution was confirmed at special meetings of a majority of the unions represented by the association, at which the voting was—

for the resolution.

against the resolution.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_.

.....  
Chairman.

—

(Amend. Act, 1908, sec. 31.)

[Form I (18).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

CITATION OF RESPONDENTS AND NOTICE TO APPOINT ASSESSORS.

To \_\_\_\_\_.

In the matter of an industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, and of a reference thereof for settlement.

I HEREBY give you notice that I have appointed the \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at \_\_\_\_\_, for the hearing of the dispute, and hereby require you to attend at the hearing thereof, and in the meantime to recommend [*Number*] qualified persons on the enclosed form for appointment as Assessors at the said hearing.

A copy of the reference is enclosed.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_.

.....  
Conciliation Commissioner.

—

(Amend. Act, 1908, secs. 31 and 32.)

[Form I (19).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

PERSONS RECOMMENDED BY RESPONDENTS\* FOR APPOINTMENT AS ASSESSORS  
IN THE HEARING OF INDUSTRIAL DISPUTE.

To the Clerk of Awards at \_\_\_\_\_.

THE following persons are recommended for appointment as Assessors in the hearing of the industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, viz. :—

	Name.	Address.	Occupation,†
1.			
2.			
3.			

(Signature.)

.....

Respondent

[or on behalf of the Respondent].

Address :  
 , 190 .

\* Section 32, (5). If the respondents cannot agree in a joint recommendation of Assessors, separate recommendation may be made by the several respondents.

† To be or have been *bona fide* engaged in the industry, except that the Commissioner may in special circumstances appoint one who is not so qualified.

(Amend. Act, 1908, sec. 32.) [Form I (20).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### APPOINTMENT OF ASSESSORS OF COUNCIL OF CONCILIATION.

I, [Name], the Conciliation Commissioner for the District, hereby appoint the following persons to be Assessors for the hearing of the industrial dispute between , applicant, and , respondent :—

*For the Applicant.*

- 1.
- 2.
- 3.

*For the Respondent.*

- 1.
- 2.
- 3.

, 190 .

(Signature.)

(Amend. Act, 1908, sec. 32.) [Form I (21).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### NOTICE CONVENING COUNCIL OF CONCILIATION.

I HAVE to give notice that the Commissioner has convened a meeting of the Council of Conciliation, to be held at on the day of , 190 , at o'clock in the noon, for the purpose of the hearing of the industrial dispute between , applicant, and respondent.

Dated at , this day of , 190 .

.....  
 Clerk of Awards.

(Amend. Act, 1908, sec. 36.) [Form I (22).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### WARRANT TO APPEAR AS AGENT

(On behalf of Employer).

Before the Council of Conciliation [or the Court of Arbitration, *as the case may be*].

To the Clerk of Awards, at .

In the matter of an industrial dispute between , applicant, and respondent, and of a reference thereof for settlement, to which I am party.

[Name], of [Address and occupation], is hereby authorised to appear for me as agent in the hearing of this dispute.

Dated at \_\_\_\_\_, this \_\_\_\_\_, day of \_\_\_\_\_, 190 \_\_\_\_\_.  
(Signature.)

(Sec. 36, (2).)

[Form I (23).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### WARRANT TO APPEAR AS AGENT

(On behalf of Industrial Union or Industrial Association).

Before the Council of Conciliation [or the Court of Arbitration, *as the case may be*].

To the Clerk of Awards, at \_\_\_\_\_.

In the matter of an industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, and of a reference thereof for settlement.

	Name.	Address.	Occupation.
1.			
2.			
3.			

are hereby authorised to appear for the \_\_\_\_\_ Union [or Association] of \_\_\_\_\_ in the hearing of this dispute.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_\_.  
(Signature of Chairman or other authorised officer.)

(Sec. 113.)

[Form I (24).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### NOMINATION OF EXPERT.

Before the Council of Conciliation [or the Court of Arbitration, *as the case may be*].

In the \_\_\_\_\_ Industrial District.

To the Clerk of Awards, at \_\_\_\_\_.

In the matter of an industrial dispute between \_\_\_\_\_, applicant, and \_\_\_\_\_, respondent, and of a reference thereof for settlement.

[Name], of [Address and occupation], is hereby nominated as an expert to sit with the Council of Conciliation [or the Court of Arbitration, *as the case may be*] for the purposes of the above dispute.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_\_.  
 For the [Name of party or parties—one expert each to be nominated by the parties whose interests are with (1) the employers, (2) the workers].

#### Consent of Expert.

I, [Name], of [Address and occupation], do hereby consent to the above nomination as an expert for the purposes of the above dispute.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190 \_\_\_\_\_.  
 \_\_\_\_\_

(Amend. Act, 1908, sec. 38.)

[Form I (25).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

APPLICATION TO JOIN OR STRIKE OUT NAME AS APPLICANT OR RESPONDENT TO  
INDUSTRIAL DISPUTE.

To the Clerk of Awards, at .

APPLICATION is hereby made to ["join" or "strike out," *as the case may be*] the  
following parties to the industrial dispute between , applicant, and  
, respondent, viz. :

Dated at , this day of , 190 .

(Signature.)

(Amend. Act, 1908, sec. 42.)

[Form I (26).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

NOTIFICATION OF COMMISSIONER OF CONCILIATION OF FAILURE TO SETTLE  
INDUSTRIAL DISPUTE.

To the Clerk of Awards, at .

In the matter of the industrial dispute between , applicant, and ,  
respondent, and of a reference thereof for settlement.

In accordance with section 42 of the Act, I have to notify you that the Council  
of Conciliation appointed for the purpose has heard the dispute, and that no  
settlement has been arrived at.

I attach copy of the application made by the applicants, together with a  
record of the proceedings of the Council,\* as required by the above section.

.....  
Conciliation Commissioner.

, 190 .

\* If a recommendation under section 43, or partial settlement under section 44, is also  
attached, add to that effect.

(Amend. Act, 1908, sec. 43.)

[Form I (27).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

RECOMMENDATION OF COUNCIL OF CONCILIATION.

To the Clerk of Awards, at .

THE Council of Conciliation constituted for the hearing of the industrial dispute  
between , applicant, and , respondent, hereby makes the follow-  
ing recommendation for the settlement of the dispute: [*Here set out recom-  
mendation, to be unanimously agreed to, &c., and to be signed by all the Assessors*].

(Amend. Act, 1908, sec. 35.)

[Form I (28).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

SUMMONS (TO WITNESS).

Before the Council of Conciliation [*or the Court of Arbitration, as the case may be*].

In the matter of an industrial dispute between , applicant, and ,  
respondent, and of a reference thereof for settlement.

To , of , and , of .

You and each of you are hereby summoned [*If before a Council of Conciliation, add,  
"by the Commissioner"*] to appear before the Council of Conciliation [*or the  
Court of Arbitration, as the case may be*] at , on , the

day of \_\_\_\_\_, 190\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and thereafter from day to day until discharged from attendance, to give evidence concerning the above-named industrial dispute on behalf of \_\_\_\_\_, party thereto; and you are also required to have and produce all books, papers, and other documents in your possession, custody, or control in any way relating to the matters in dispute, and in particular, but not exclusively, the following: \_\_\_\_\_.

If you fail or neglect to comply with this summons you are liable to a penalty not exceeding £20, or to imprisonment not exceeding one month.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 190\_\_\_\_.

Issued in the name and on behalf of the Council of Conciliation [or the Court of Arbitration, *as the case may be*].

.....  
Clerk of Awards.

(Sec. 66.)

[Form I (29).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### RECOMMENDATION OF INDUSTRIAL UNION OF PERSONS FOR APPOINTMENT TO THE COURT OF ARBITRATION.

To His Excellency the Governor.

In pursuance of section 66 of the Act, the \_\_\_\_\_ Industrial Union of hereby recommends Mr. \_\_\_\_\_ for nomination as member, and Mr. \_\_\_\_\_ for nomination as acting member, of the Court of Arbitration.

In the name of the \_\_\_\_\_ Industrial Union of \_\_\_\_\_.  
[Seal.] (Committee of management or other governing authority.)  
\_\_\_\_\_, 190\_\_\_\_.

[Form I (30).]

(Sec. 77, principal Act; Amend. Act, 1908, sec. 46.)

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### REFERENCE OF INDUSTRIAL DISPUTE TO COURT.

In the \_\_\_\_\_ Industrial District.

In the matter of an industrial dispute between \_\_\_\_\_ and \_\_\_\_\_, and of a reference thereof for settlement.

To His Honour the Judge, Court of Arbitration.

WHEREAS a notification under section 42 of the Amendment Act, 1908, has been delivered to me by the Conciliation Council appointed for the hearing of the dispute that no settlement of the above dispute has been arrived at: the dispute is, pursuant to section 46, hereby referred to the Court of Arbitration for settlement.

.....  
Clerk of Awards.

Address: \_\_\_\_\_,  
\_\_\_\_\_, 190\_\_\_\_.

(Amend. Act, 1908, sec. 79.)

[Form I (31).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### NOTICE OF SITTING OF COURT OF ARBITRATION.

\_\_\_\_\_ Industrial District.

(Three clear days' notice to be given to each member of the Court and all parties concerned.)

To .  
 In the matter of an industrial dispute between , applicant, and  
 , respondent, and of a reference thereof for settlement.  
 NOTICE is hereby given that the Court of Arbitration will sit for the hearing  
 of the above dispute, at , on the day of , 190 .  
 at o'clock in the noon.

.....  
 Clerk of Awards.

Place : . , 190 .

(Sec. 80.)

[Form I (32).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
 Amendments.

#### CONSENT TO APPEARANCE OF BARRISTER OR SOLICITOR.

Before the Court of Arbitration, Industrial District.

To the Clerk of Awards, at .

In the matter of an industrial dispute between , applicant, and  
 , respondent, and of a reference thereof for settlement.

APPEARANCE of barrister or solicitor before the Court is hereby consented  
 to by all the parties to this industrial dispute.

(Signatures of consenting parties.)

(Sec. 93 ; sec. 92, (1A).)

[Form I (33).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
 Amendments.

#### APPLICATION TO AMEND AWARD.

Industrial District.

To the Clerk of Awards, at .

In the matter of the Award, dated , 190 .

THE undersigned, being a party to the above award, hereby applies to the  
 Court of Arbitration to amend its provisions as follows :

Dated at , this day of , 190 .

(Signature.)

(Sec. 93.)

[Form I (34).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
 Amendments.

#### NOTICE OF APPLICATION TO AMEND AWARD.

Industrial District.

TAKE notice that an application to amend the Award, dated ,  
 190 , has been made by one of the parties thereto.

Copy of the application is enclosed herewith.

Dated at , this day of , 190 .

.....  
 Clerk of Awards.

(At least thirty days' notice to be given to all parties.)

(Sec. 93.)

[Form I (35).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## APPLICATION TO EXTEND AWARD TO OTHER PARTIES.

In the Industrial District.

To the Clerk of Awards, at .

In the matter of the Award, dated the day of , 190 .  
THE undersigned, being a party to the above award, hereby applies to the Court of Arbitration to have the said award extended so as to join and bind the following parties, who are connected with or engaged in the same industry as that to which the award applies :

Dated at , this day of , 190 .

(Signature.)

(Amend. Act, 1908, sec. 94.)

[Form I (36).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## APPLICATION TO ADD PARTY OR PARTIES TO AN AWARD.

In the Industrial District.

To the Clerk of Awards, at .

In the matter of the Award, dated the day of , 190 .  
THE undersigned, being a party to the above award, hereby applies to the Court of Arbitration to add the following party or parties to the said award :  
Dated at , this day of 190 .

(Signature.)

(Sec. 93.)

[Form I (37).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## NOTICE OF APPLICATION TO EXTEND AWARD TO OTHER PARTIES.

In the Industrial District.

TAKE notice that an application to extend the Award, dated , to other parties has been made by one of the parties thereto.

A copy of the application and also of the award is enclosed herewith.

Dated at , this day of , 190 .

.....  
Clerk of Awards.

(At least thirty days' notice to be given to all parties, including every trade-union, industrial union, industrial association, or employer to whom the application refers.)

(Amend. Act, 1908, sec. 94.)

[Form I (38).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

## NOTICE OF APPLICATION TO ADD PARTY OR PARTIES TO AN AWARD.

In the Industrial District.

TAKE notice that an application to add party or parties as follows to the Award, dated , 190 , has been made by one of the parties thereto :

A copy of the award is enclosed herewith.

Dated at , this day of , 190 .

.....  
Clerk of Awards.



(Sec. 97.)

[Form I (39).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

APPLICATION TO THE COURT OF ARBITRATION TO FIX AND DETERMINE WHAT SHALL CONSTITUTE A BREACH OF AWARD.

In the Industrial District,

To the Clerk of Awards, at .

I, , the undersigned, party to the Award, dated , 190 , hereby make application to the Court of Arbitration to fix and determine what shall constitute a breach of the award. The clause of the award in question (No. ) and the particulars of the case that has arisen are as follow: .

(Signature and address.)

, 190 .

(Sec. 123.)

[Form I (40).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

APPLICATION FOR UNDER-RATE WORKER'S PERMIT.

To [*The person authorised to issue the permit*].

I HEREBY make application to you for the issue of a permit under the Award, dated , 190 , to accept wages as follows, such wages being below that prescribed for ordinary workers in the trade: .

\*\*\* \*\*

Applicant.

Date: , 190 .

Address: .

*Particulars.*

NOTE.—Particulars of the above application to be forwarded by the local Inspector to the Chief Inspector, Wellington.

(Sec. 123.)

[Form I (41).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

NOTICE OF HEARING APPLICATION FOR UNDER-RATE WORKER'S PERMIT.

To the Secretary, Industrial Union of Workers, .

AN application having been received by me from for a permit under the Award, dated , 190 , to accept wages as follows , such wages being below that prescribed for ordinary workers in the trade under the award, I hereby give you notice that the application will be heard at o'clock on , 190 , at : .

(Signature of person authorised to issue permit.)

Address: .

, 190 .

[Form I (42).]

(Sec. 123.)

[Form I (42).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

Under "The Industrial Conciliation and Arbitration Act 1908," and its Amendments.

UNDER-RATE WORKER'S PERMIT.

UNDER-RATE WORKER'S PERMIT.

PERMIT granted to to  
work for per day from  
th day of , 190 ,  
until and including the  
day of , 190 .

I HEREBY grant a permit to [*Name and address*] to work  
for per day from the day of , 190 ,  
until and including the day of , 190 ,  
under the Award [*or Industrial Agreement*], dated  
, 190 .

Given under my hand, this day of , 190 .

(*Signature of person  
authorised to issue  
permit.*)

(*Signature of person authorised  
to issue permit.*)

.....Industrial District.

.....Industrial District.



(Amend. Act, 1908, sec. 62.)

[Form I (44).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

## CERTIFICATE OF AGE.

I HEREBY certify that

was born on

.....  
Official of Labour Department.

Address :

, 190 .

\*(Amend. Act, 1908, sec. 63.)

[Form I (45).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

NOTICE TO OCCUPIER OF FACTORY OR SHOP TO WHICH AWARD OR INDUSTRIAL  
AGREEMENT APPLIES.

I HAVE to call your attention to section 63 of the above Act, and to an award  
[or industrial agreement] enclosed herewith, which relates to your factory [or  
shop], in accordance with which you are required to keep at all times a printed  
or typewritten copy of the award [or industrial agreement] affixed in some  
conspicuous place at or near the entrance of your factory [or shop] in such a  
position as to be easily read by the persons employed therein.

For any breach of the section you are liable to a fine not exceeding £5.

.....  
Chief Inspector.

(Amend. Act, 1908, sec. 14.)

Form I (46).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

## PLAINT-NOTE.

In the Magistrate's Court, holden at .  
Between , plaintiff, and , defendant.

THE plaintiff claims to recover from the defendant the sum of £ as  
penalty [or penalties] for , and requests that a summons may be issued  
forthwith.

Dated at , this day of , 190 .  
(Signature of plaintiff or his solicitor.)

Amount of stamp affixed :

Nature of fee :

Date of issue :

(Amend. Act, 1908, sec. 14.)

[Form I (47).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

## STATEMENT OF CLAIM.

In the Magistrate's Court, holden at .  
Between , plaintiff, and , defendant.

1. THE plaintiff claims to recover from the defendant the sum of £  
as a penalty for the breach of the [Auckland Carpenters'] Award, dated the  
day of , 1907. The following are the particulars of the said  
breach : [Here set out particulars in accordance with the regulations].

---

\* As amended by regulations dated the 20th April, 1909.

2. The plaintiff also claims to recover from the defendant the sum of £     as a penalty for another breach of the same award. The following are the particulars of the said breach: [*Here set out particulars in accordance with the regulations*].

(Amend. Act, 1908, sec. 14.)

[Form I (47A).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### STATEMENT OF CLAIM FOR PENALTY FOR AN OFFENCE.

In the Magistrate's Court, holden at     .

Between     , plaintiff, and     , defendant.

THE plaintiff claims to recover from the defendant the sum of £     as a penalty for an offence under section 5 of "The Industrial Conciliation and Arbitration Amendment Act, 1908." The following are particulars of the said offence: [*Here set out particulars of the offence in accordance with the regulations*].

(Amend. Act, 1908, sec. 14.)

[Form I (48).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### SUMMONS TO DEFENDANT.

Plaint No.     .

In the Magistrate's Court, holden at     .

Between [*State residence and calling of each party*], plaintiff, and     , defendant.

YOU are hereby summoned to attend at the Magistrate's Court, to be holden at     , on     day, the     day of     , 190     , at the hour of     o'clock in the forenoon, to answer the demand of the plaintiff for the sum of £     penalty, particulars whereof are hereunto annexed.

Herein fail not or the case will be heard and determined in your absence.

Given under my hand and the seal of the Court, at     aforesaid, this day of     , 190     .

.....  
Clerk of Court.

Extra mileage:     .

Solicitor's fee for entering plaint:     .

To the defendant.

Hours of attendance at the office of the Clerk are from 10 a.m. to 1 p.m. and from 2 p.m. to 4 p.m., except on Saturday, when the office will be closed at noon.

(See notice indorsed.)

To the Clerk of the Court [*or the plaintiff*],     v.     .

I HEREBY give notice that I intend to defend this action.

Dated at     , this     day of     , 190     .

.....  
Defendant.

NOTE.—This notice must be served on the Clerk of the Court (or on the plaintiff) at least two clear days before the day of the hearing.

[INDORSE.]

To be served on the defendant at least five clear days before the day of the hearing of the action (sec. 14, (7), I.C. & A. Act Amend., 1908).

To the defendant.

No plea of infancy, coverture, Statute of Limitations, or discharge in bankruptcy will be allowed unless notice thereof shall have been filed with the Clerk of the Court and served on the plaintiff or his solicitor at least twenty-four hours before the day appointed for the hearing.

If it is your intention to defend the action, you must deliver notice to the plaintiff, or to the Clerk of the Magistrate's Court, within two clear days before the day of the hearing, otherwise you will not be entitled to defend the action except with the leave of the Magistrate.

This summons was sued out by \_\_\_\_\_, of \_\_\_\_\_ Street, solicitor for the plaintiff.

Summonses for witnesses and for the production of documents will be issued on application at the office of the Clerk.

(Amend. Act, 1908, sec. 21.)

[Form I (49).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### STATEMENT OF CLAIM.

In the Court of Arbitration of New Zealand, Industrial District.

Between \_\_\_\_\_, plaintiff, and \_\_\_\_\_, defendant.

1. THE plaintiff claims to recover from the defendant the sum of £ \_\_\_\_\_ as a penalty for the breach of the [*Auckland Carpenters'*] Award, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1907. The following are particulars of the said breach: [*Here set out particulars in accordance with the regulations*].

2. The plaintiff also claims to recover from the defendant the sum of £ \_\_\_\_\_ as a penalty for another breach of the same award. The following are particulars of the said breach: [*Here set out particulars in accordance with the regulations*].

(Amend. Act, 1908, sec. 21.)

[Form I (49A).]

Under "The Industrial Conciliation and Arbitration Act, 1908." and its Amendments.

#### STATEMENT OF CLAIM FOR PENALTY FOR AN OFFENCE.

In the Court of Arbitration of New Zealand, Industrial District.

Between \_\_\_\_\_, plaintiff, and \_\_\_\_\_, defendant.

THE plaintiff claims to recover from the defendant the sum of £ \_\_\_\_\_ as a penalty for an offence under section 5 of "The Industrial Conciliation and Arbitration Amendment Act, 1908." The following are particulars of the said offence: [*Here set out particulars of the offence in accordance with the regulations*].

(Amend. Act, 1908, sec. 21.)

[Form I (50).]

Under "The Industrial Conciliation and Arbitration Act, 1908." and its Amendments.

#### NOTICE TO DEFENDANT.

In the Court of Arbitration of New Zealand, Industrial District.

Between \_\_\_\_\_, plaintiff, and \_\_\_\_\_, defendant.

TAKE notice that the above-named plaintiff has commenced an action against you in this Court to recover the sum of \_\_\_\_\_ as a penalty for breach of an award, and that a copy of the statement of claim in the said action is hereunto annexed.

And further take notice that the said action will be heard at the Supreme Court House in                      on                      day, the                      day of                      , 190                      , at 10 o'clock in the forenoon, and that if you desire to defend the said action it will be necessary for you, two clear days before the day of hearing, to deliver to the plaintiff or the Registrar of this Court a notice of your intention to defend this action, and that if you fail to give such notice you will not be entitled to defend this action, except with the leave of the Court.

Dated this                      day of                      , 190                      .

.....  
Clerk of Awards.

(Amend. Act, 1908, secs. 15 and 21.)

[Form I (51).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

NOTICE BY CLERK OF COURT (or REGISTRAR) TO PLAINTIFF OF DEFENDANT'S INTENTION TO DEFEND ACTION.

Plaint No.                      .

In the                      Court, holden at                      .

Between                      , plaintiff, and                      , defendant.

TAKE notice that the defendant has this day lodged with me his written notice of intention to defend the above action.

Dated at                      , this                      day of                      , 190                      .

.....  
Clerk of Court  
[or Registrar].

To the Plaintiff.

Hours of attendance at the office of the Clerk: on                      , from                      till                      , except on                      , when the office will be closed at                      .

(Amend. Act, 1908, sec. 16.)

[Form I (52).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

NOTICE BY CLERK OF COURT TO INSPECTOR OF AWARDS OF JUDGMENT FOR BREACH OF AWARD OR INDUSTRIAL AGREEMENT.

Plaint No.                      .

To the Inspector of Awards.

In the action                      v.                      for enforcement of                      Award [or Industrial Agreement].

THIS is to certify that on                      , 190                      , judgment was given for                      as follows:                      .

Dated at                      , this                      day of                      , 190                      .

Penalty:                      .  
Costs:                      .  
.....  
Clerk of Court.

(Amend. Act, 1908, sec. 21.)

[Form I (53).]

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

STATEMENT OF PENALTY AND COSTS, COURT OF ARBITRATION.

Before the Court of Arbitration,                      Industrial District.

Inspector                      v.                      .

STATEMENT of penalty and costs for a breach of the Industrial Agreement], dated , 190 .				Award [ <i>or</i> In-
{ } Penalty	..	..	..	..
{ } Counsel's fee	..	..	..	..
{ } Witnesses' expenses	..	..	..	..
Settled and allowed at , £ .				
, 190 .				Clerk of Awards.

(Amend. Act, 1908, sec. 21.)

[Form I (54).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

CERTIFICATE OF REGISTRAR OF COURT OF ARBITRATION FOR ENFORCING PAY-  
MENT OF PENALTY AND COSTS ORDERED.

Industrial District.

In the matter of a breach of the Award [*or* Industrial Agreement], dated  
, 190 .

THIS is to certify that on the day of , 190 , the Court did order  
that the sum of £ penalty, together with £ costs, should be  
payable by [Name], of [Address and occupation] to [Name], of [Address and  
occupation], and that the said amount [*or* , balance of the said amount]  
is now payable by the said to the said .  
Dated at , this day of , 190 .

[Seal.]

.....  
Registrar.

(Amend. Act, 1908, Sec. 17.)

[Form I (55).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

NOTICE BY CLERK OF COURT TO INSPECTOR OF AWARDS OF PAYMENT OF  
PENALTY.

The Inspector of Awards, at .

Plaint No. .

In the Magistrate's Court, holden at .

Between , plaintiff, and , defendant.

ENCLOSED please find bank receipt for the sum of , amount of penalty  
in the above action, together with your costs.

Dated at , this day of , 190 .

.....  
Clerk of Court.*Particulars.*

(Amend. Act, 1908, sec. 10.)

Form I (56).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its  
Amendments.

NOTICE BY CLERK OF COURT [*or* REGISTRAR OF ARBITRATION COURT] OF  
SUSPENSION OF REGISTRATION OF INDUSTRIAL UNION [*or* ASSOCIATION OF  
WORKERS].

To the Registrar of Industrial Unions [*or* the Secretary of the Defendant In-  
dustrial Union or Association].



I HEREBY give you notice that on the                      day of                      , 190    , in the Court, holden at                      , it was ordered that the registration of the Industrial Union [or Association of Workers] be suspended for the period of                      from the date thereof.

.....

Clerk

, 190    .

[or Registrar of Court].

NOTE.—Clause 10, subsections (2) to (7) to be inserted.

(Amend. Act, 1908, sec. 20.)

[Form I (b7).

Under "The Industrial Conciliation and Arbitration Act, 1908," and its Amendments.

#### APPLICATION FOR ORDER OF ATTACHMENT OF WAGES.

To the Stipendiary Magistrate, at                      .

Between                      , plaintiff, and                      , defendant.

I REQUEST that an order of attachment of the wages of the defendant,                      , be made upon his employer,                      , in respect of the surplus of wages due, or which at any time may become due above the sum of £                      a week until the sum of £                      , being the unpaid portion (as per subjoined statement) of the sum (£                      ) and costs which he was, on the                      day of                      , 190    , adjudged to pay in the Magistrate's Court at                      .

Amount of judgment ..	£                      .	Amount paid in part	
Costs .. .. .	£                      .	satisfaction of above	
		judgment ..	£
		Balance still unpaid, for	
		which attachment order	
		is requested ..	£

£                     

£                     

Given under my hand, at                      , this                      day of                      , 190    .

.....  
Plaintiff.

Witness to signature :                      .

Warrant issued accordingly,                      this                      day of                      , 190    .

ALEX. WILLIS,  
Clerk of the Executive Council.

#### ARBITRATION COURT.—REGULATIONS RESPECTING INTERPRETATIONS.

(See also additional regulations, p. 561.)

THE Arbitration Court makes the following regulations for the guidance of Clerks of Awards and parties:—

1. As the advice of the Clerk of Awards is often sought by Union Secretaries and others as to the proper interpretation of awards,

industrial agreements, and other instruments where penalties are not sought, the Court has thought it best to make regulations to facilitate the stating of cases for its opinion.

2. Parties frequently address letters to the President and members of the Court asking similar questions. After the publication of these regulations such correspondence will merely be forwarded to the proper Clerk of Awards, who will deal with it by informing the parties of these regulations.

3. Any person who is a party to or directly interested in an award or industrial agreement may obtain the opinion of the Court upon any question connected with the construction of an award, industrial agreement, or any particular determination or direction of the Court or any Conciliation Board or Chairman thereof, or upon the construction of any statute relating to matters within the jurisdiction of the Court, subject to the following conditions:—

- (a.) The Court will, without considering itself obliged to give reasons, decline to give such advice where in the opinion of the Court it is inadvisable to do so.
- (b.) No such opinion is actually binding upon the Court, even in the matter submitted to it.
- (c.) This is especially the case where any want of *bona fides* is apparent, or where the Court has not been fully informed, or has not fully appreciated the question put or the full consequences of the answer, or the matter affects parties beyond those who have actually submitted the question, or where the asking or obtaining such an opinion has a tendency to defeat or avoid penalties which have accrued and ought not to be avoided, or to protect parties from the consequences of wilful breaches of the award, agreement, or other instrument.
- (d.) Parties who are unwilling to seek or concur in seeking an opinion under these limitations should resort to a test case in the ordinary course.

4. An application for interpretation may be initiated by any party competent to make an application for enforcement, but it is necessary that the opposite party should concur in and sign such application.

5. Such application may be accompanied by such material as any party wishes to have forwarded therewith. Thus, parties may lodge with the Clerk of Awards copies of the correspondence which has taken place respecting the matter in dispute, and any party may hand in a written or typewritten memorandum stating the view of the case which he contends the Court should adopt. All such documents shall be legibly written on foolscap, or typed on paper of foolscap size, and four copies thereof shall be lodged. A copy of every

document so forwarded shall be sent by the Clerk of Awards to the opposite party. The fee applicable to filing an application for enforcement will be paid.

6. Such application shall be made upon a form to be supplied by the Clerk of Awards.

7. No disputed question of fact should be left open to be determined on such an application. If any dispute should arise it must be determined by evidence and the attendance of parties.

8. When such an application is duly lodged in the proper office the Clerk of Awards will forward the same to the President, who will bring it before the Court in due course. The Court if it thinks fit so to do will order that the case be argued by the parties or in exceptional cases by counsel.

9. The opinion of the Court thereon will be given in open Court, and will be forwarded to the Clerk of Awards.

10. Until forms of application are printed, ordinary applications will be altered by the Clerk of Awards in accordance with a form settled by the Court.

Dated this 16th day of November, 1903.

FREDK. R. CHAPMAN, J., President.

---

### ARBITRATION COURT.—ADDITIONAL REGULATIONS RESPECTING INTERPRETATION.

---

THE Arbitration Court makes the following regulations for the guidance of the Clerk of Awards, Inspector, and parties :—

1. These regulations are supplemental to those made on the 18th day of November, 1903, and are to be read with them.

2. All Inspectors empowered by law to enforce awards and industrial agreements are entitled to file applications for interpretation.

3. The Court considers that in every case where the facts appear clear, and there is no ground for seeking a penalty, the Inspector should carefully consider whether it can reasonably be treated as a case for interpretation; but the Court does not desire to interfere with the discretionary power of the Inspectors, especially when they are not at once reasonably met by the respondent.

4. The Court finds it necessary to deal with the possible case of a union refusing to concur in an application for interpretation where the employer desires to have one stated and the facts are not in dispute.

5. In such a case the employer is not in a position to bring a test case, and it is undesirable that he should be invited to supply a test

case by committing some act which may amount to a breach. The duty of the employer in such a case in future will be to request the Inspector to make an application for interpretation.

6. If the facts are clear, it will then be the duty of the Inspector to make such an application, to which the concurrence of the union shall not be necessary. Such application shall be headed "Inspector's Application for Interpretation."

7. The Clerk of Awards shall in such case, at the request of the Inspector, forward copies of the application to all parties interested, and any party may have his views represented in terms of clause 5 of the regulations of the 16th November, 1903.

8. If the Court finds itself unable to deal with the matter without further evidence or explanation, it will call upon the parties for further information, or defer deciding the case until it visits the district in which the question arises.

9. Any matter which involves a question as to the performance by any party of his duty under an award or industrial agreement shall be deemed a question of interpretation within these and the said regulations.

10. These regulations apply to pending applications, whether filed by Inspectors or parties.

Dated this 10th day of January, 1905.

FREDK. R. CHAPMAN, J., President.

[Extract from *New Zealand Gazette*, 15th February, 1906.]

## REGULATIONS UNDER "THE LABOUR DEPARTMENT ACT, 1903."

PLUNKET, Governor.

### ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this twenty-ninth day of December, 1905.

Present :

THE HONOURABLE SIR J. G. WARD, K.C.M.G., PRESIDING IN COUNCIL.

WHEREAS by "The Labour Department Act, 1903." it is provided that the Governor may from time to time, by Order in Council gazetted, make such regulations as he thinks necessary,—

- (a.) Prescribing the duties of the Secretary, Inspectors, and other officers under the said Act :
- (b.) Prescribing the forms of notices to be given under the said Act, and the manner in which the same may be served ; and also the forms in which the information or particulars required

or obtained under section seven of the said Act shall be supplied, and by whom and in what manner the same shall be authenticated :

(c.) Generally giving effect to the said Act.

Now, therefore, in exercise of the powers conferred upon him by the said Act, and of all other powers and authorities him enabling in this behalf, His Excellency the Governor of the Colony of New Zealand, acting by and with the advice and consent of the Executive Council of the said colony, doth hereby, for the purposes aforesaid, make the regulations set forth in the Schedule hereto.

#### SCHEDULE.

1. In these regulations,—

“Department” means the Department of Labour constituted under “The Labour Department Act, 1903” :

“Minister” means the Minister of Labour.

“The said Act” means “The Labour Department Act, 1903.”

2. The Department shall be under the general direction and control of the Minister, and subject thereto the Secretary and all inspectors and other officers of the Department shall carry out the functions of the Department, and perform such duties as the Minister from time to time determines.

3. All Inspectors and other officers of the Department shall conform to the directions of the Secretary.

4. The Minister, the Secretary, and such officers of the Department as the Minister or the Secretary authorises in that behalf, shall be entitled to procure, require, and obtain the information referred to in section 7 of the said Act, and for the purposes of that section the following provisions shall apply :—

(1.) The forms of notice and returns to be used may be such of those marked “A” to “D” in the Schedule hereto as are applicable, with such modifications as may be necessary to meet the circumstances of each case. In cases not provided for the notices and returns shall be in such form as the Minister or Secretary prescribes or approves.

(2.) The notice shall be signed by the Minister, Secretary, or authorised officer, and the fact of any officer so signing shall be sufficient evidence of his authority so to do until the contrary is proved.

(3.) The return shall be signed—

(a.) In the case of a registered or incorporated company, by the manager, secretary, or other authorised officer thereof :

(b.) In the case of an industrial union, trade-union, or other union or association of workers, by the secretary or other authorised officer thereof :

(c.) In the case of an employer or firm of employers, by the employer or firm or any members thereof, or the manager or authorised agent of the employer or firm ; and

(d.) In the case of any other person, by such person or his authorised agent.

\*(4.) The notice may be served on the addressee either personally or by leaving it at the nearest last known office or place of business or residence of the addressee, or by posting it addressed to the addressee at such office, place, or residence.

(5.) The notice, if served by post, shall be deemed to have been served on the day when the letter would have been delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing it was duly posted.

---

\* As amended by regulations dated the 31st January, 1907.

## SCHEDULE OF FORMS.

## NOTICE "A."

"The Labour Department Act, 1903."

Marked .

To .

PURSUANT to section 7 of the above-mentioned Act, you are hereby required to furnish the information indicated in the enclosed return, marked . by duly and correctly filling in and signing the said return, and forwarding the same to the office of the Labour Department at . within . days after service of this notice.

Dated at . this . day of . 190 .

A. B.,

Minister [Secretary *or* Authorised Officer].

## DEFAULT NOTICE "B."

"The Labour Department Act, 1903."

Marked .

To .

By notice marked ., dated the . day of . 190 ., and served on you on the . day of . 190 ., you were required to furnish the information indicated in the therein enclosed return (a copy whereof is enclosed herewith) by duly and correctly filling in and signing the said return, and forwarding the same to the office of the Labour Department at .

The return not having been received at the said office within . after such service, application is now for the second time made to you to furnish the information, and your special attention is drawn to section 10 of the above-mentioned Act, which is as follows:—

"10. Every person who neglects or refuses for the space of one month after the second application to furnish the information required under any of the provisions of this Act is liable to a fine not exceeding twenty pounds, and any person furnishing such information knowing it to be false is liable to a similar penalty."

For the purpose of furnishing the information you may use either the original form of return or the copy enclosed herewith.

Dated at . this . day of . 190 .

A. B.,

Minister [Secretary *or* Authorised Officer].

## RETURN "C."

"The Labour Department Act, 1903."

FORM of RETURN to be made under Section 7, (b), by EMPLOYERS.

Marked ., and served on [Name of employer], with application dated .

*Particulars concerning Factories.*

Return made by [Name of employer].

Situation of factory to which this return relates : . Street : .

Name of superintendent or manager : .

Total number of persons employed during year ending 31st March, 190 : .

Nature of employment :

Total wages paid in factory during year ending 31st March, 190 : £ . s. d.

Total number of days factory in operation during the year ending 31st March, 190 : .

Hours of work in factory:—

Monday to Friday, from . a.m. to . p.m.

Saturday, from . a.m. to . p.m.

*Particulars concerning Wages of Persons employed.*

Age.	Number of Males, and Rate of Wages each per Week.	Total Wages paid to Males per Week.	Number of Females, and Rate of Wages each per Week.	Total Wages paid to Females per Week.
14				
15				
16				
17				
18				
19				
20				
21 and over				

I [or We] declare this return to be correct in every particular.

Dated this            day of            , 190            , Employer.

## RETURN "D."

"The Labour Department Act, 1903."

FORM of RETURN to be made under Section 7, (b), by EMPLOYERS.

Marked            , and served on [Name of employer], with application  
dated            .

*Particulars concerning Shops.*

Return made by [Name of employer].

Situation of shop to which this return relates:            Street:            .

Name of superintendent or manager:            .

Total number of persons employed during year ending 31st March, 190            .

Nature of employment:            .

Total wages paid in shop during year ending 31st March, 190 : £            s.            d.

Hours of work in shop:—

Day of weekly half-holiday.            a.m. to            p.m.

One working-day (late night). [Specify the day],            a.m. to            p.m.

Other working-days,            a.m. to            p.m.

*Particulars concerning Wages of Persons employed.*

Age.	Number of Males, and Rate of Wages each per Week.	Total Wages paid to Males per Week.	Number of Females, and Rate of Wages each per Week.	Total Wages paid to Females per Week.
14				
15				
16				
17				
18				
19				
20				
21 and over				

I [or We] declare this return to be correct in every particular.

Dated this            day of            , 190            , Employer.

ALEX. WILLIS.

Clerk of the Executive Council.

[Extract from *New Zealand Gazette*, 12th March, 1908.]

## REGULATIONS UNDER "THE SCAFFOLDING INSPECTION ACT, 1906."

PLUNKET, Governor.

### ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this third day of March, 1908.

Present:

THE HONOURABLE W. HALL-JONES PRESIDING IN COUNCIL.

WHEREAS by section five of "The Scaffolding Inspection Act, 1906" (hereinafter termed "the said Act"), it is provided that the Governor may from time to time, by Order in Council gazetted, make regulations relating to scaffolding and gear used in connection therewith: And whereas regulations were made under the said Act on the seventeenth day of December, one thousand nine hundred and six, and on the sixteenth day of February, one thousand nine hundred and seven, and such regulations were published in the *New Zealand Gazette* of the twentieth day of December, one thousand nine hundred and six, and the twenty-first day of February, one thousand nine hundred and seven, respectively: And whereas it is expedient to revoke the said recited regulations and make other provision in lieu thereof:

Now, therefore, His Excellency the Governor of the Dominion of New Zealand, in pursuance and exercise of the power and authority conferred by the said Act and "The Scaffolding Inspection Act Amendment Act, 1907," and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby revoke the recited regulations of the seventeenth day of December, one thousand nine hundred and six, and the sixteenth day of February, one thousand nine hundred and seven, respectively, and in lieu thereof doth hereby make the following regulations for the purposes of the said Act, namely:—

### REGULATIONS.

#### 1. In these regulations,—

"Gear" includes ladder, plank, rope, fastening, hoist, block, pulley, hanger, sling, brace, and other movable contrivance of a like kind:

"Scaffolding" means any structure or framework used or intended to be used for the support of workmen in erecting, demolishing, altering, repairing, cleaning, painting, or carrying on any other kind of work in connection with any building, structure, ship, or boat, and includes any swinging stage used or intended to be used for any of the purposes aforesaid:



“ The said Acts ” mean “ The Scaffolding Inspection Act, 1906,” and its amendments.

2. The notice of the Inspector of intention to erect scaffolding (under section 4) shall be in the Form Sc. 1 in the Schedule to these regulations.

The directions of the Inspector to the owner or person in charge of or employed on scaffolding or gear under section 6, (1) and (2), shall be in the Forms Sc. 2 and 3 in the Schedule hereto, with such modification as may be necessary to meet the circumstances of each case.

3. All scaffolding, and all gear used in connection therewith, in any district for which an Inspector has been appointed under the said Act shall be of the description indicated in these regulations under the respective headings, and shall be set up, built, maintained, and used in accordance with such regulations: Provided that it shall be lawful for any Inspector to authorise the use of any other description of scaffolding or gear in any case where he has personally inspected the same, and certified in writing that in his opinion such scaffolding or gear may safely be used for the purpose intended.

#### SWINGING STAGE.

4. Every swinging stage used or intended to be used in connection with any scaffolding as above defined shall be so constructed or built to bear three times the maximum weight ordinarily required.

Blocks to be of iron or wood not less than 4 in. in diameter of sheaf, consisting of double and single block. All rope to be manila, not less than  $2\frac{1}{2}$  in. circumference.

Platform to be not less than 18 in. in width. Each swinging stage 18 ft. in length shall have two hangers, to be wrought iron or mild steel of not less than 1 in. diameter, or 4 in. manila rope, or  $1\frac{3}{4}$  in. steel-wire rope, fitted to the satisfaction of the Inspector. The distance between the hangers to be not more than 12 ft. Where the stage exceeds 18 ft. in length, and the distance between the hangers exceeds 12 ft. the planking shall be stiffened with an approved truss underneath, and other parts to be of stronger construction, as may be directed by the Inspector.

Guard-rail to be of 3 in. manila rope, 1 in. pipe, or 3 in. by 2 in. timber securely fastened not less than 2 ft. 6 in. from floor; also fender-board not less than 4 in. by 1 in. on outside and both ends.

#### TRIPOD GANTRIES.

5. Gantry not exceeding 100 ft. high for a steam or other crane to lift a weight of 5 tons and not exceeding 10 tons to be constructed as follows: Tripod gantry towers to be not less than 6 ft. by 6 ft.,

and to be constructed with 7 in. by 7 in. corner-posts extending the full height of the gantry, properly fish-plated and bolted at junctions ; corner-posts to be firmly tied together by 9 in. by 3 in. horizontal ties at 10 ft. centres, and each side of the tower to be properly braced with 7 in. by 3 in. diagonal braces, firmly bolted to the corner-posts ; each tower to have a centre-post 8 in. by 8 in., these posts to extend the full height, and to be firmly fish-plated at junctions, and to be stiffened at intervals with 5 in. by 3 in. stays to the corner-posts of each tower. The towers to be constructed by means of horizontal braces, 9 in. by 3 in., spaced not less than 20 ft. apart. Each side of the gantry to be braced with diagonal braces of 9 in. by 3 in., firmly bolted to the timbers of the towers and at intersections ; the towers to rest on 9 in. by 9 in. sleeper-plates, and to be tied together at top by 9 in. by 9 in. kerb ; all bolts for gantries to be not less than  $\frac{3}{4}$  in. diameter. The back stays of the crane to be tied to the 8 in. by 8 in. centre-post by means of two 4 in. by 1 in. wrought-iron straps extending over the back stay of the crane and down each side of the centre-post. The length of the strap to be 9 ft., and to be firmly bolted to the centre-post and to the timbers of the crane by 1 in. bolts. The ends of the straps to be also turned and mortised into centre-post  $1\frac{1}{2}$  in. Each centre under the back stays of the crane shall have a platform at the bottom formed of 9 in. by 3 in. timber firmly bolted to the centre-post and to the sides of the tower, and each tower shall be loaded with a weight equal to three times the weight the crane has to lift.

The construction of a tripod gantry not exceeding 100 ft. high for a crane to lift from 10 tons to 15 tons to be similar in all respects to the foregoing, with the exception that the corner-posts of the towers shall be 8 in. by 8 in.

Where circumstances necessitate a gantry exceeding 100 ft. in height, it shall be constructed to the approval of the Inspector.

Other styles of gantries to be erected as approved by the Inspector.

#### HAND-CRANES, DERRICKS, ETC.

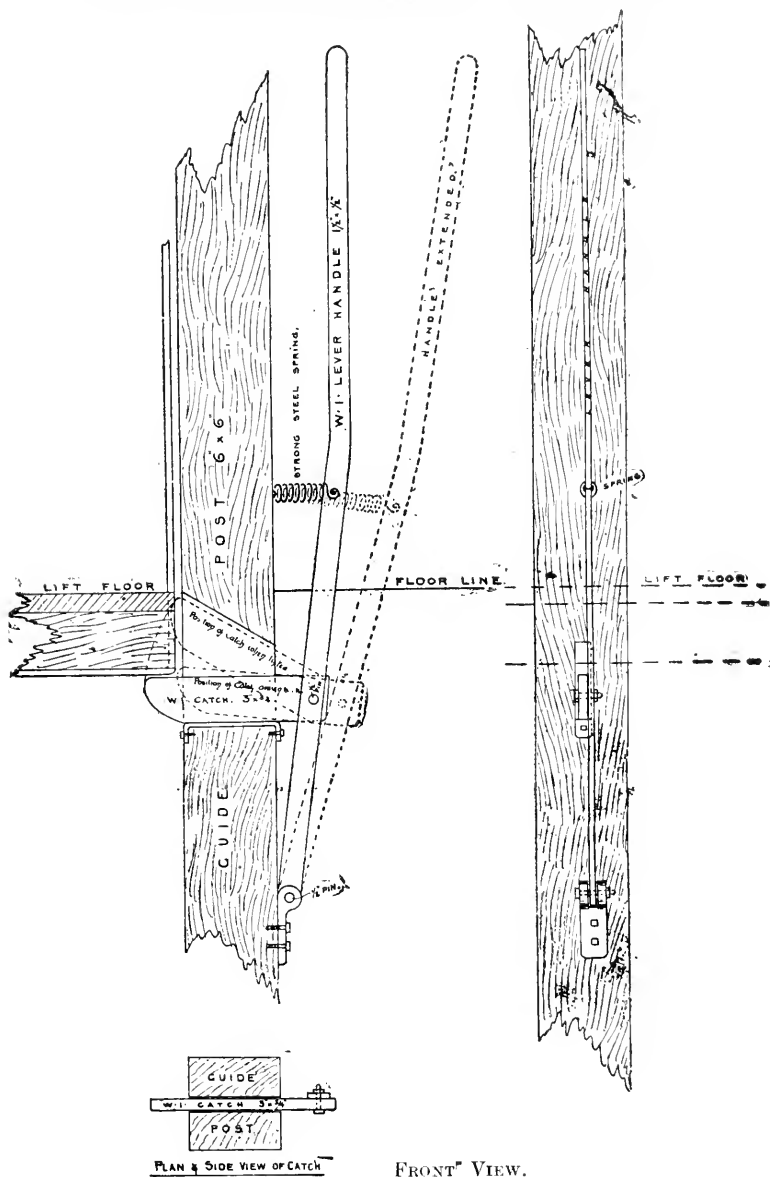
6. All hand-cranes, derricks, or any such similar gear used in connection with any scaffolding shall, after erection and before being put into commission, be tested with a load of 25 per cent. more than that which the crane or derrick is designed to lift. Such test is to be in the presence of the Inspector.

Each back stay of any crane shall be loaded with a weight equal to at least three times that which the crane has to lift.

Every hand-crane shall have marked in a prominent position the maximum load which the crane is designed to lift.

Lifts must be fitted with an automatic catch of the design attached, or with such other appliance as may be approved by the Minister.

## APPROVED FORM OF AUTOMATIC CATCH FOR TEMPORARY LIFT.



FRONT VIEW.

## EXTERNAL SCAFFOLD FOR BRICKLAYERS AND PLASTERERS.

7. Every external scaffolding for bricklayers or plasterers shall be erected according to the following specification, namely: Standards to be not more than 9 ft. apart, and to be not less than 5 in. by 3 in. Where poles are used, the same shall be not less than 4 in. diameter at butt and  $2\frac{1}{2}$  in. at tip. Standards, where practicable, to be imbedded 12 in. in ground; where necessary, to be stood on a solid sole-piece. Ledgers to be not less than 6 in. by 2 in., or 4 in. by 3 in., or, if approved poles are used, to be not less than  $3\frac{1}{2}$  in. in diameter, and to be tied or bolted to standards at spaces of not more than 6 ft. apart. First ledger may be fixed at not more than 10 ft. from the ground where circumstances require it.

Putlogs to be of approved timber. Where the span does not exceed 5 ft. in the clear the size shall not be less than 3 in. by 3 in., spaced not more than 6 ft. apart, and to have not less than  $4\frac{1}{2}$  in. bearing in wall. All putlogs, where practicable, to be securely wedged in position at wall, and securely fastened to ledger. Only alternate putlogs to be removed from the lower stages until scaffolding is finished with, or hoop-iron ties secured to wall and every other ledger every 10 ft. may be used.

Scaffold-boards to be of sound timber, and not less than  $1\frac{1}{2}$  in. thick, laid butting or lapping, but where lapped the laps to be not less than 9 in. Scaffolds to have fender-boards not less than 9 in. high and 1 in. thick on all working-stages secured to standards, also guard-rail not less than 3 ft. high of scaffold-poles or timber, not less than 3 in. by 2 in., lashed or bolted to standards, or  $3\frac{1}{2}$  in. manila rope. Openings through guard-rail and fender-board allowed alongside landings only.

Bracing to be not less than 4 in. by 2 in. Poles or other approved timber may be used and placed to the Inspector's satisfaction.

Scaffolds to be secured by manila rope not less than  $1\frac{3}{4}$  in. in circumference and 15 ft. long, or bolts not less than  $\frac{5}{8}$  in. diameter, fitted with washers. All lashings to be kept properly wedged, and bolts properly tightened up.

Where an external scaffold is to be used for plasterers' work only, the standards may be spaced not more than 10 ft. apart, ledgers to be not less than 4 in. diameter butt and  $2\frac{1}{2}$  in. taper end, or 4 in. by 3 in., and spaced to suit the particular class of work, such spacing to be to the satisfaction of the Inspector. Bracing to be not less than 3 in. by 2 in.

## INTERNAL SCAFFOLD FOR BRICKLAYERS.

8. Internal scaffolds for bricklayers shall be constructed in a similar manner to the external scaffolds, and with timber of similar sizes. Trestles approved by the Inspector may be used in place of standards.

The standards may be omitted when the internal or division walls form sufficient bearing for ledgers. The distance between such bearing shall not exceed 8 ft.

#### INTERNAL SCAFFOLD FOR PLASTERERS, PAINTERS, AND OTHERS.

9. Where the height of the scaffolding intended for the use of plasterers, painters, and others exceeds 16 ft. it shall be constructed of standards of not less than 4 in. diameter at the butt and  $2\frac{1}{2}$  in. at taper end, or 4 in. by 3 in. if other approved timber, to be placed not more than 9 ft. apart; ledgers to carry the platform of scaffolding to be 5 in. by 2 in. if sawn timber, if of round timber to be of similar size to the standards, bolted to standards with  $\frac{5}{8}$  in. bolts, or properly secured with  $1\frac{3}{4}$  in. manila rope. Scaffolds under a height of 16 ft. to be erected with standards or trestles to the satisfaction of the Inspector.

#### REGULATION 9A.\*

##### *Scaffolds for Carpenters.*

All scaffolding for carpenters shall be erected according to the following specifications, namely: Standards up to 20 ft. in height to consist of not less than 4 in. by 2 in.; beyond this height, not less than 4 in. by 3 in. for the first 15 ft., thereafter 4 in. by 2 in. Standards to be not more than 9 ft. apart. Bearers and cleats to be not less than 8 in. by 1 in., well nailed to walls and standards. All scaffolds to be well braced with not less than 6 in. by 1 in. braces, well nailed. Approved wooden or iron brackets may be used, placed at not more than 9 ft apart.

And doth hereby declare that the foregoing regulation shall come into force on the day of the gazetting hereof (28th May, 1908).

#### LADDERS.

10. All ladders must extend at least 5 ft. above the highest level served.

Ladders for bricklayers, plasterers, and painters shall be of clean oregon or kauri, but for ladders under 14 ft. in length red or white pine may be used. Where square timber is used, to be constructed of 3 in. by 2 in. stiles, and 3 in. by 1 in. battens partly sunk into stiles, and firmly nailed or screwed. Batten ladders exceeding 14 ft. in length shall be of heavier material, and constructed to the satisfaction of the Inspector.

#### GENERAL.

11. (a.) When any building is in the course of erection, repair, or structural alteration, it shall be the duty of the person having the control or management of such operations to make provision to the satisfaction of the Inspector for the protection of workmen and others

---

\* Additional regulation dated the 28th May, 1908.

within such building or in the vicinity thereof by boarding over the joists of such building, and keeping them so boarded over so long as any risk of accident would be incurred by the removal of such protection.

(b.) All "runs," gangways, or similar means of communication between different portions of a scaffold or building shall not be less than 18 in. wide. If composed of two or more boards they shall be fastened together in such a manner as to prevent unequal sagging.

(c.) Scaffold-boards forming part of a working-platform shall be supported at each end by a putlog, and shall not project more than 6 in. beyond it, unless lapped by another board, which shall rest partly on or over the same putlog and partly upon putlogs other than those upon which the supported board rests.

(d.) All supports to centring shall be carried from a solid foundation.

(e.) All working-platforms above the height of 10 ft. shall be at least 18 in. wide, and, where practicable, to have guard-rail not less than 2 ft. 6 in. from platform.

(f.) All well-holes and openings in floors to be guarded.

12. In every case where there occurs in connection with the erection, repair, or structural alteration of any building any accident causing death or serious bodily injury to any person, the person having the control or management of such operation shall forthwith serve upon the Inspector of the district within which such accident has occurred written notice specifying the nature of the accident, the name and residence of the person killed or injured, and the place, if any, to which such person has been removed.

For the purposes of this section the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer from work for at least forty-eight hours.

Notice of the accident shall be in the Form Sc. 4 in the Schedule hereto, and report of same by Inspector to the Minister shall be in the Form Sc. 5 of such Schedule.

#### SCHEDULE.

[Coat-of-arms.]

[Form Sc. 1.]

"The Scaffolding Inspection Act, 1906." and Amendments.

, 190 .

To the Inspector of Scaffolding,

Department of Labour,

I, [We,] , hereby give notice, in accordance with section 4 of the above Act, that I [we] intend to erect scaffolding at in accordance with the following particulars:

Signed this day of , 190 .

Name :

Postal address :

(To be sent to Inspector at least twenty-four hours before erection of scaffolding.)

Form Sc. 2.

*"The Scaffolding Inspection Act, 1906," and its Amendments.*

## NOTICE TO PERSONS IN CHARGE OF SCAFFOLDING OR GEAR.

I HEREBY give you notice that the scaffolding [or gear] erected [or in course of erection] at \_\_\_\_\_ is not in accordance with the regulations [or is unsafe]. I therefore require you to alter it by \_\_\_\_\_ before allowing same to be used for the support of workmen.

\_\_\_\_\_, Inspector of Scaffolding.

Date : \_\_\_\_\_, 190 \_\_\_\_.

[Form Sc. 3.]

*"The Scaffolding Inspection Act, 1906," and Amendments.*

## NOTICE TO WORKMEN AND OTHERS.

I HEREBY give you notice that the scaffolding [or gear] erected [or in course of erection] at \_\_\_\_\_ is not in accordance with regulations [or is unsafe]. You are hereby directed to cease working on it until it has been altered as directed by \_\_\_\_\_.

\_\_\_\_\_, Inspector of Scaffolding.

Date : \_\_\_\_\_, 190 \_\_\_\_.

[Form Sc. 4.]

*"The Scaffolding Inspection Act Amendment Act, 1907."*

## NOTICES OF ACCIDENT.

(Report under Section 4.)

The Inspector of Scaffolding, \_\_\_\_\_.

I HAVE to notify you of the following accident which occurred at \_\_\_\_\_ :—

Name of person : \_\_\_\_\_.

Occupation : \_\_\_\_\_.

Residence : \_\_\_\_\_.

Where removed : \_\_\_\_\_.

Nature of accident : \_\_\_\_\_.

Signature : \_\_\_\_\_.

Date : \_\_\_\_\_, 190 \_\_\_\_.

(To be sent to Inspector within forty-eight hours of occurrence of accident.)

Form Sc. 5.

*"The Scaffolding Inspection Act Amendment Act, 1907."*

## ACCIDENT: REPORT BY THE INSPECTOR.

The Chief Inspector, Wellington.

FOR the information of the Minister, I have to report the following accident which occurred at \_\_\_\_\_ job, \_\_\_\_\_ Street, on \_\_\_\_\_, 190 \_\_\_\_, to an employee named \_\_\_\_\_, engaged as \_\_\_\_\_ :—

## PARTICULARS OF ACCIDENT.

(With recommendation of Inspector.)

[State also what provision is made re compensation.]

\_\_\_\_\_, Inspector of Scaffolding.

\_\_\_\_\_, District.

Date : \_\_\_\_\_, 190 \_\_\_\_.

[Extract from *New Zealand Gazette*, 10th October, 1907.]

## SERVANTS' REGISTRY OFFICES.—AMENDED SCALE OF FEES.

PLUNKET, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this seventh day of October, 1907.

Present:

HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

IN exercise of the power conferred upon him by "The Servants' Registry Offices Act, 1895," and of all other powers and authorities him enabling in this behalf, His Excellency the Governor of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby revoke, as from the date of the coming into effect of the Schedule hereunder, the Order in Council made under the said Act on the twentieth day of February, one thousand eight hundred and ninety-six, and published in the *Gazette* of the twentieth idem, at page 327, and in lieu thereof doth hereby prescribe the following scale of fees chargeable by and payable to license-holders in respect of the hiring of servants, to come into force as from the first day of November, one thousand nine hundred and seven.

## SCALE OF FEES.

	Fees payable by	
	Servant.	Employer.
For every engagement actually made :—		
Single engagements—	s. d.	s. d.
Where weekly rate of wages does not exceed 5s.	1 0	2 0
Where weekly rate of wages exceeds 5s. but does not exceed 10s.	1 6	4 0
Where weekly rate of wages exceeds 10s. but does not exceed 15s.	2 6	5 0
Where weekly rate of wages exceeds 15s. but does not exceed £1	3 0	6 0
Where weekly rate of wages exceeds £1 ..	3 6	7 0
Married couples—		
Where yearly rate of wages does not exceed £50	4 0	8 0
Where yearly rate of wages exceeds £50 ..	5 0	10 0
In the case of country engagements, meaning thereby those which are for places situate more than three miles from the license-holder's office, the following additional fees shall be payable :—		
Single engagements—		
Where the weekly rate of wages does not exceed 10s.	0 6	1 0
Where the weekly rate of wages exceeds 10s. ..	1 0	2 0
Married couples—		
In every case .. .. .	2 0	4 0



“The Servants’ Registry Offices Act, 1895,” provides as follows :—

Section 15. “Every license-holder shall at all times keep posted up in some conspicuous place in his office, so as to be easily read by all persons, a printed copy of the scale of fees for the time being in force under this Act.”

Section 16. “It shall not be lawful for any license-holder to directly or indirectly demand or receive from any person, for or in respect of the hiring of any servant, any greater or other fees than those specified in such scale ; and any sum so in any way received by any license-holder in breach of this section may be recovered back, with full costs of suit, by the person who paid it.”

“No license-holder shall, directly or indirectly, take or accept of any goods or chattels in payment or as security for the payment of such fees, nor shall any license-holder receive or accept any reward or other consideration in addition to the said fees.”

Section 19. “If any person, being a license-holder, fails or neglects to comply with any of the provisions of this Act, being a license-holder or not, commits a breach of any of the provisions of this Act, he is liable to a penalty not exceeding five pounds.”

Section 22. “Every conviction against a license-holder shall be indorsed on his license by the convicting Magistrate or Justices ; and, upon a third indorsement within three years from the first indorsement within such period being made, the license shall be deemed *ipso facto* cancelled, and the Clerk of the Court shall deliver it up to the Inspector.”

Section 23. “No person whose license has been cancelled shall be entitled to hold a license in any district until the expiration of one year from the date of such cancellation.”

ALEX. WILLIS,  
Clerk of the Executive Council.

## REGULATIONS UNDER “THE WORKERS’ COMPENSATION ACT, 1908.”

PLUNKET, Governor.

ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this first day of March, 1909.

Present :

THE RIGHT HONOURABLE SIR J. G. WARD, K.C.M.G., PRESIDING IN COUNCIL.

In pursuance and exercise of the powers and authorities conferred upon him by “The Workers’ Compensation Act, 1908,” His Excellency the Governor of the Dominion of New Zealand, acting by and with the

advice and consent of the Executive Council of the said Dominion, doth hereby for the purposes of that Act make the regulations herein-after set forth :—

1. The following regulations may be cited as the Workers' Compensation Rules, 1909.

2. All regulations heretofore made by the Governor and in force under "The Workers' Compensation for Accidents Act, 1908," are hereby revoked, but shall continue to apply to all cases to which that Act continues to apply by virtue of the provisions of section sixty of "The Workers' Compensation Act, 1908."

3. In the following regulations, unless a contrary intention appears,—

"Court" means the Court of Arbitration :

"Clerk of Awards" means a Clerk of Awards under "The Industrial Conciliation and Arbitration Act, 1908," or any person for the time being lawfully acting in place of a Clerk of Awards under the provisions of that Act :

"Industrial district" means an industrial district under "The Industrial Conciliation and Arbitration Act, 1908" :

"The Act" means "The Workers' Compensation Act, 1908."

#### WRIT OF SUMMONS.

4. Every action brought in the Court of Arbitration in pursuance of the Act shall be commenced by a writ of summons in the Form No. 3 in the Schedule hereto, or in a form to the like effect.

5. Every such writ shall be issued out of the office of the Clerk of Awards of the industrial district in which the action must be commenced in accordance with the rules in that behalf hereinafter contained.

6. All such writs issued in the same industrial district shall be numbered consecutively in the order of their issue.

7. The writ shall be dated as of the day of its issue, and shall be sealed with the seal of the Court.

8. The writ when sealed shall be deemed to be issued, and the date thereof shall be deemed to be the date of the commencement of the action.

9. The plaintiff's statement of claim shall be annexed to the writ before it is sealed.

10. The writ of summons shall be prepared by the plaintiff or his solicitor, and shall be tendered to the Clerk of Awards, who shall seal the same and as many duplicates thereof as are required for service.

11. The original writ and statement of claim shall be retained by the Clerk of Awards and filed in his office.

12. At the foot of the writ there shall be subscribed a memorandum stating whether the writ has been issued by the plaintiff in person or by a solicitor on his behalf.

13. The memorandum shall also state a place to be called the address for service, where the plaintiff, if he sues in person, or his solicitor, may be served with notices and other written communications.

14. Such address for service shall not be more than three miles from the office of the Clerk of Awards of the industrial district in which the writ is issued.

15. No solicitor shall issue a writ on behalf of a plaintiff or file a statement of defence for a defendant until he has filed with the Clerk of Awards either a warrant in that behalf in the Form No. 4 in the Schedule hereto, signed by the plaintiff or defendant, as the case may be, or by his agent thereunto duly authorised, or a declaration signed by the solicitor that he is authorised to act as <sup>an</sup>solicitor in the action on behalf of the plaintiff or defendant. But where any such declaration is filed it shall be the duty of the solicitor to file, in addition thereto, such a warrant as aforesaid as early as may be afterwards.

16. There shall be indorsed on the back of the writ the notices to defendants purporting to be indorsed on the form of writ in the Schedule hereto.

17. The writ shall specify the name, residence, and calling of each plaintiff and defendant : Provided, however,—

- (1.) That any party may be designated in the writ by any name which he has acquired by usage or reputation ;
- (2.) That any person carrying on business in the name of a firm apparently consisting of more than one person <sup>may</sup> be designated by the name of that firm ;
- (3.) That any two or more persons carrying on business in partnership in the name of a firm may be designated in the writ by the name of the firm ;
- (4.) That if the plaintiff at the time of issuing the writ is ignorant of the defendant's place of residence or calling, it shall be sufficient to describe him as “ last known of [*Naming his last known residence*]. ” and to state his last known calling ;
- (5.) That in an action against the owners of a ship not registered in New Zealand the defendants may be sufficiently designated as “ The owners of the ship [*Naming her*] ” without naming or further describing them.

18. The writ shall not be set aside for any misnomer or inaccurate description of the plaintiff or of the defendant.

#### SERVICE OF WRIT.

19. The writ shall be served on the defendant in person, or, if there are more defendants than one, on each defendant in person.

20. Service may be effected by delivering to the defendant a duplicate of the writ, with a copy of the plaintiff's statement of claim thereto annexed, or by bringing it to the defendant's notice if he refuses to receive it.

21. When a solicitor has undertaken in writing to accept service on behalf of any defendant or defendants, such defendant or defendants may be served by delivering at the office of the solicitor, for all the defendants for whom he accepts service, one duplicate of the writ, with a copy of the plaintiff's statement of claim annexed.

22. The writ may be served by the plaintiff, or any person whom he employs for that purpose, or by the proper officer of the Court, and service may be proved on oath before the Court, or by affidavit in the Form No. 5 in the Schedule hereto.

23. If at the office of the Clerk of Awards an officer has not been appointed to serve writs, the writ shall be served by the plaintiff or any person he appoints.

24. When the writ is to be served by an officer of the Court, the plaintiff or his solicitor, at the time of applying for the writ, shall deliver to the proper officer as many duplicates of the writ, with copies of the statement of claim, as there are defendants to be separately served.

25. The writ shall be served within four months from the day of the date thereof, including the day of the date of the writ.

26. Service of the writ on Sunday, Christmas Day, New Year's Day, or Good Friday shall be void.

27. If it appears to the Judge of the Court that reasonable efforts have been made to effect service of the writ, and either that the writ has come to the knowledge of the defendant or that prompt personal service thereof cannot be effected, the Judge may order *ex parte* that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as the Judge thinks fit to impose.

28. Where a writ has not been served on the defendant or any defendant named therein, the plaintiff may at any time before the expiration of the period of four months from the date thereof (including the day of the date thereof) apply *ex parte* to the Judge of the Court for leave to renew the writ, and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original and duplicate writs of summons be renewed for four months from the date of such renewal, and so from time to time during the currency of the renewed writ.

29. The writ and duplicate shall in such case be renewed by being resealed and being marked with the word "Renewed" and the date of the renewal by the Clerk of Awards of the industrial district in which the writ was issued.

30. A writ so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action is limited, and for all other purposes, as from the date of the original issue of the writ.

31. A writ or duplicate writ purporting to be so marked as aforesaid, showing the same to have been renewed, shall be sufficient evidence of such renewal and of the commencement of the action as of the first date of such renewed writ for all purposes.

32. Where partners are sued as partners, but not in the name of the firm, the writ may be served on any one or more of the partners, or at the principal place in New Zealand of the business of the partnership, on any one appearing to have control of the partnership business there.

33. Where one person carrying on business in the name of a firm apparently consisting of more than one person is, or two or more persons carrying on business in the name of a firm are, sued in the name of the firm, the writ may be served on such one person, or on any one or more of such partners, or at the principal place in New Zealand of the business of the partnership on any one appearing to have control of the partnership business there.

34. Unless otherwise provided by statute, service may be effected on—

(a.) Corporations, by delivering a duplicate of the writ to the mayor, president, chairman, clerk, secretary, or treasurer of such corporation, or any one performing the duties incidental to any of those offices :

(b.) Incorporated companies, by delivering a duplicate of the writ to the president, chairman, managing director, or secretary of such company, or to any one performing the duties incidental to any of those offices, or to any one appearing to have charge of the business of the company, at its registered office or principal place of business in New Zealand.

35. Where a defendant is beyond New Zealand, and has in New Zealand an attorney or agent authorised to transact his affairs generally, or to defend actions on his behalf, the writ may, by leave of the Judge of the Court, granted on the *ex parte* application of the plaintiff, be served upon such attorney or agent, subject to such terms as the Judge thinks right to impose.

36. In an action against the owners or charterers of a ship the writ may (without excluding other modes of service) be served by delivering the same to the master of the ship, unless the master is himself the plaintiff, or by serving the same upon any person or company acting in New Zealand as the agent of the defendants in respect of that ship.

37. In any action the writ may be served out of New Zealand by leave of the Judge of the Court, granted on the *ex parte* application of the plaintiff.

38. Every application for an order for leave to serve a writ out of New Zealand shall be supported by evidence, by affidavit or otherwise, showing in what place or country the defendant is or probably may be found, and whether the defendant is a British subject or not, and the grounds on which the application is made.

39. Any order giving leave to effect service out of New Zealand shall fix the time within which the defendant is to file his statement of defence, and the writ shall be amended accordingly, so as to conform to the order in this respect.

40. In any case not provided for by these Rules service shall be effected in such manner as the Judge of the Court directs.

#### PLACE OF COMMENCEMENT OF ACTION

41. Every action shall be commenced in the industrial district in which all the parties to the action reside ; but if all the parties do not reside in the same industrial district, then the action shall be commenced—

- (a.) In the industrial district in which the accident out of which the action arises occurred ; or
- (b.) If the action arises out of the incapacity or death of a worker by reason of any disease, then in the industrial district in which the worker was last employed in the employment to the nature of which the disease was due ; or
- (c.) If the accident out of which the action arises occurred out of New Zealand, then in any industrial district.

42. A writ shall not be invalidated or set aside because the action has been commenced in the wrong industrial district, nor shall this be any ground of defence in the action ; but in any such case the Judge of the Court may, if in his discretion he thinks fit, order the action to be transferred to any other industrial district, and thereupon all subsequent proceedings in the action shall be taken in the same manner as if the writ had been issued in the industrial district to which the action has been so transferred.

#### PARTIES TO AN ACTION.

43. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, and judgment may be given for such one or more of the plaintiffs as are found entitled to relief for such relief as they are entitled to, without any amendment.

44. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or the Judge thereof may at any time, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determina-

tion of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs, upon such terms as may seem just.

45. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, and judgment may be given against such one or more of the defendants as are found to be liable, according to their respective liabilities, without any amendment.

46. It shall not be necessary that every defendant to an action shall be interested as to all the relief prayed for, or as to every cause of action included therein; but the Court or the Judge thereof may make such order as appears just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in the action in which he may have no interest.

47. When in any action the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that in such action the question as to which (if any) of the defendants is liable, and to what extent, may be determined as between all parties to the action.

48. Any two or more persons claiming or being liable as partners may sue or be sued in the name of their respective firms (if any), and the opposite party may in such case apply for the names of the persons who are partners in any such firm, and until an affidavit has been filed stating the names and addresses of such partners all proceedings in the action on the part of such partners shall be stayed.

49. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm.

50. Any minor above the age of eighteen years may sue or be sued in the same manner as if he were of the full age of twenty-one years.

51. Minors below the age of eighteen years and idiots or lunatics may sue and defend by a guardian *ad litem* admitted for that purpose by the Court or the Judge thereof.

52. The Court or the Judge thereof may on application *ex parte* admit any person as the guardian *ad litem* of a minor, idiot, or lunatic.

53. The writ of summons and statement of claim may be served upon any defendant being a minor under the age of eighteen years or an idiot or lunatic, although no guardian *ad litem* has been admitted, but no further step shall be taken in the action until a guardian *ad litem* is admitted.

54. If no application is made for admission as guardian *ad litem* to any such defendant within five days after service of the writ of summons, the Court or the Judge thereof, on the *ex parte* application of the plaintiff, may order that a solicitor, who consents thereto, do act as guardian *ad litem* of the defendant, and the defendant shall be liable to pay to the solicitor so appointed his costs of defending

the action : Provided that in the case of a lunatic defendant the Court or the Judge thereof may order his committee to act as guardian *ad litem*.

55. A guardian *ad litem*, other than a solicitor appointed under the last preceding rule, shall be liable for the costs of the action in the same manner as if he were a party to the action.

56. A guardian *ad litem* may be removed by the Court or the Judge thereof upon sufficient cause being shown. In the case of the death, retirement, or removal of a guardian *ad litem*, a fresh guardian shall be admitted in the same manner as the original guardian. A guardian *ad litem* shall not be permitted to retire without the leave of the Court or the Judge thereof.

57. No action shall be defeated by reason of the misjoinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

58. The Court or the Judge thereof may at any stage of the proceedings, either upon or without the application of either party, and on such terms as appear to the Court or Judge to be just, order that the name of any party, whether as plaintiff or defendant, improperly joined be struck out, and that the name of any person who ought to have been joined, or whose presence before the Court is considered necessary or advisable for doing complete justice in the matter of the action, be added, whether as plaintiff or defendant.

59. No person shall be added as a plaintiff without his own consent.

60. An application<sup>f</sup> to add or strike out or substitute a plaintiff or defendant may be made at any time before trial or at the trial of the action.

61. When a defendant is added, unless otherwise ordered by the Court or Judge, the plaintiff shall serve on that defendant a copy of the order joining him as a party and of the statement of claim in the action, and may, before service, amend the statement of claim in such manner as the joinder of such new defendant renders desirable.

62. If the statement of claim is amended under the last preceding rule, the statement of claim filed in the Court and served upon the original defendant shall be amended in the same manner, or copies of such amended statement of claim shall be filed in the Court and served upon the original defendant.

#### STATEMENTS OF CLAIM AND DEFENCE.

63. On applying for a writ of summons the plaintiff shall deliver to the Clerk of Awards a statement of his claim against the defendant.

64. The statement of claim shall be annexed to the original writ of summons, and a copy thereof shall be annexed to each duplicate of the writ issued for service, and three other copies thereof shall at the same time be delivered to the Clerk of Awards for the use of the Court.



65. The statement of claim shall show the general nature of the cause of action, and shall ask for such judgment as the plaintiff considers himself entitled to.

66. The plaintiff may, besides asking for a specific judgment, ask generally for such judgment as the Court may consider him entitled to.

67. If the statement of claim seeks the recovery of a sum of money, the amount shall be stated as precisely as the nature of the case admits.

68. The defendant shall within the time limited in the writ of summons in that behalf deliver to the Clerk of Awards of the industrial district in which the writ is issued a statement of his defence to the plaintiff's claim, together with three copies of the statement for the use of the Court, and shall also serve a copy of such statement on the plaintiff.

69. At the foot of the statement of defence there shall be subscribed a memorandum stating whether it has been delivered by the defendant in person or by a solicitor on his behalf, and an address, to be called the address for service, where notices, orders, and other documents in the action may be left for the defendant.

70. Such address for service shall not be more than three miles from the office of the Clerk of Awards of the industrial district in which the writ is issued.

71. If further time to file a statement of defence is required, the defendant may apply to the Court or the Judge thereof, and the Court or the Judge may allow such further time as is deemed reasonable, and may, if necessary, adjourn the trial for such time and on such terms as to payment of costs and otherwise as may appear just.

72. The statement of defence shall either admit or deny the allegations of fact in the plaintiff's statement of claim.

73. Every allegation not denied shall be deemed to be admitted.

74. Where an affirmative defence is intended, the statement of defence shall show the general nature thereof.

75. If the plaintiff is prepared to admit any allegations of fact in the defendant's statement of defence, he shall, within seven days after the service upon him of the statement of defence, serve upon the defendant a notice stating distinctly the allegations which he admits, and any allegations of fact not so admitted shall be deemed to be denied.

76. The statements of claim and defence respectively shall give such particulars of time, place, amount, names of persons, dates of instruments, and other circumstances as may suffice to inform the opposite party of the cause of action or ground of defence, as the case may be.

77. If at the trial it appears to the Court that either party is taken by surprise by the nature of the case or defence set up by the opposite party, the Court may adjourn the trial to such time and place as is thought fit.

78. The statement of claim and defence shall be divided into paragraphs numbered consecutively, and each paragraph shall contain as nearly as may be a separate allegation. Dates, sums, and numbers shall be expressed in figures, and not in words.

79. If either party in his statement relies upon any document or any part thereof, it shall be sufficient to state the effect thereof as briefly as possible, without setting it out, unless the precise words are material.

#### AMENDMENT OF STATEMENTS OF CLAIM AND DEFENCE.

80. Either party may, at any time before trial, deliver to the Clerk of Awards an amended statement of claim or defence, and serve a copy thereof on the opposite party.

81. Either party may by notice require the opposite party to deliver and serve, within four days after the service of such notice, a more explicit statement of claim or defence.

82. Such notice shall indicate as clearly as may be the points in which the statement in respect of which it has been served is considered defective.

83. If the party on whom such notice is served neglects or refuses to comply with the same, the Court or the Judge thereof may, if the statement objected to appears not to give fair notice of the cause of action or ground of defence, order a fuller and more explicit statement to be filed. In default of compliance with any such order the Court at the trial may dismiss the action or strike out the defective statement of defence, as the case may be.

84. Where a statement of claim or defence has been amended under the preceding rules, the Court or the Judge thereof may, either before or at the trial, adjourn the trial for such time, to such place, and upon such terms as to payment of costs by the party amending as may appear just.

85. If no statement of defence has been filed by a defendant in accordance with the foregoing rules, such defendant shall not be entitled at the trial to defend the action without the leave of the Court, and judgment may be given against him accordingly as if he had confessed the cause of action.

86. Where a statement of defence has been filed by the defendant he shall not be entitled, without the leave of the Court, to raise any defence, whether of law or of fact, at the trial of the action, unless the nature of such defence is in the opinion of the Court sufficiently indicated in the statement of defence so filed by him; and judgment may be given against him accordingly.

87. Notwithstanding anything to the contrary in the two last preceding rules, if the Court at the trial of the action is of opinion that the failure of a defendant to file a statement of defence or a sufficient statement of defence has been due to a *bona fide* mistake, or that for

any other reason leave to defend or to further defend the action ought justly to be given to the defendant, the Court may give leave to the defendant, on such terms as to costs or otherwise as are thought fit, to raise any specified defence of law or fact at the trial, without filing any statement of defence or without any formal amendment of the statement of defence.

#### CONFESSION.

88. If any defendant desires to confess the cause of action or any part thereof, he may at any time before the trial, instead of filing a statement of defence or after having filed a statement of defence, file a confession in the Form No. 6 in the Schedule hereto, and serve a copy thereof upon the plaintiff, and thereupon at the trial of the action judgment may be given against such defendant, without hearing evidence, in respect of the cause of action or the part thereof so confessed by him, with or without costs, as the Court thinks fit.

#### PAYMENT INTO COURT.

89. In any action in which the plaintiff claims the recovery of a lump sum of money the defendant may at any time before the trial pay into Court the amount so claimed or any lesser sum, and serve a notice of such payment upon the plaintiff.

90. The amount so paid into Court shall not be taken out of Court by the plaintiff, but shall remain in Court, to be dealt with as the Court or the Judge thereof directs.

91. The payment of money into Court shall be deemed to be a confession of the cause of action to the extent of the amount so paid, and judgment may at the trial be given against the defendant accordingly ; but the defendant may, with respect to any other cause of action or with respect to any sum claimed in excess of the amount so paid into Court, file a statement of defence and defend the action in the same manner as if no payment into Court had been made.

92. In any action in which the plaintiff claims a lump sum of money by way of compensation, but in which the Court may in its discretion award in lieu thereof a weekly payment of compensation, the defendant may make payment into Court in accordance with the foregoing rules ; but if the Court awards a weekly payment of compensation, the amount so paid into Court shall be repaid to the defendant, subject to any deduction ordered by the Court to be made therefrom in respect of costs or arrears of weekly payments.

93. All moneys payable into Court in pursuance of the Act or of these Rules shall be paid to the Clerk of Awards of the industrial district in which the action or other proceeding is pending, and the Clerk of Awards shall deal with the same in accordance with the Treasury Regulations for the time being in force relating to law trust moneys.

## DISCONTINUANCE.

94. The plaintiff may at any time before trial discontinue his action, either wholly or as to any cause of action, by filing with the Clerk of Awards a memorandum in the Form No. 7 in the Schedule hereto.

95. A copy of such memorandum shall be served upon the defendant by the plaintiff.

96. A plaintiff so discontinuing shall be liable to pay to the defendant the costs of the action, and judgment may be given against the plaintiff accordingly on the application of the defendant.

97. The discontinuance of the action shall not be a defence to any subsequent action on the cause of action discontinued, but the Court or the Judge thereof may stay any such subsequent action unless and until the costs of the previous action have been paid.

## ISSUES OF LAW.

98. If at any time in the course of the proceedings in an action it appears to the Court or to the Judge thereof that the matter in dispute is one of law only, or that a substantive question of law is involved which ought to be decided before the trial of the action, the Court or the Judge thereof may order that such matter or point of law be argued before the Court before the trial of the action, and that the trial of the action do stand adjourned pending the decision of the Court thereon.

99. The parties may, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court.

100. On the argument of any such case the Court shall be at liberty to draw from the facts and documents set forth or referred to in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the trial.

101. On the argument of such special case the Court may give judgment in the action, or may order the issues of fact or any of them to be tried before giving judgment.

102. In any action or other proceeding the Court or the Judge thereof may state a case for the opinion of the Court of Appeal on any point of law arising in the action or proceeding.

## EVIDENCE.

103. Evidence at the trial of an action shall be given by means of witnesses who shall be examined *viva voce* before the Court; but the parties may agree that the evidence or any part of the evidence may be given by affidavit. Moreover, the Court or the Judge thereof may, even though no such agreement has been made, at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the trial, on such conditions as the Court or Judge thinks reasonable.

104. Rules 179 to 205 of the Code of Civil Procedure, set forth in the Second Schedule to the Judicature Act, 1908, or any rules for the time being in force amending or substituted for those rules, shall so far as applicable extend and apply to the taking of evidence by affidavit in the Court of Arbitration under "The Workers' Compensation Act, 1908."

105. The Court or the Judge thereof may in any cause or matter where it appears necessary for the purposes of justice make an order for the examination on oath before any officer of the Court, or any other person or persons, and at any place either in or out of New Zealand, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein, on such terms (if any) as the Court or Judge may direct.

106. Where any order is made for the examination of witnesses in New Zealand a summons may be issued for the attendance of any such witness, or for the production of documents by him, in the same form and manner, subject to all necessary modifications, as in the case of witnesses summoned to give evidence before the Court, and all the provisions of the following rules respecting witnesses summoned to attend the Court shall extend and apply accordingly.

107. On the application of any party the Clerk of Awards of the industrial district in which the action was commenced shall issue a summons to any person to appear and give evidence before the Court.

108. Every such summons shall be in duplicate, and shall bear the seal of the Court. One of the duplicates shall be retained by the Clerk of Awards and the other shall be delivered to the applicant for service.

109. Service of any such summons shall be effected by delivering a copy to the witness, and at the same time producing the original for his inspection if so required by him.

110. Any number of witnesses may be included in one summons, but the copy served need contain only the name of the witness upon whom it is served.

111. Every such summons may be in the Form No. 8 in the Schedule hereto, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or under the control of the witness.

112. Every witness attending the Court upon such a summons shall be entitled to a sum for his expenses and loss of time in accordance with the scale for the time being in force in the Magistrate's Court under "The Magistrates' Courts Act, 1908."

113. A witness who resides more than two hundred miles from the place of trial shall not be compellable to attend personally at the trial, unless the Court or the Judge thereof, on the application *ex parte* of any party, otherwise orders.

114. Paragraph (f) of section eighty-three of "The Industrial Conciliation and Arbitration Act, 1908" (respecting witnesses failing to obey the summons of the Court), shall extend and apply to witnesses summoned under these Rules in the same manner as to witnesses summoned under the said Act.

115. The Court or the Judge thereof may take evidence on oath or affirmation, and for that purpose any member of the Court, or any Clerk of Awards, or the Registrar of the Court, or any other person acting under the express or implied direction of the Court or of the Judge thereof, may administer an oath or affirmation.

#### PLACE, TIME, AND MODE OF TRIAL.

116. When the writ of summons in any action has been served, and the time therein limited for filing the statement of defence has expired, the Clerk of Awards shall send to the Judge of the Court a copy of the statement of claim, together with a copy of the statement of defence (if any), and the Judge shall thereupon appoint a time and place for the trial of the action, and shall notify the Clerk of Awards of the time and place so appointed.

117. The place so appointed shall be within the industrial district in which the action has been commenced, unless the Judge for special reasons thinks fit to appoint a place outside that district.

118. The Clerk of Awards shall forthwith send to the plaintiff a notice, in the Form No. 9 in the Schedule hereto, of the time and place so appointed for the trial, and shall also send a like notice to the defendant, if a statement of defence has been filed by him.

119. At any time and from time to time before the trial the Judge of the Court may, on his own motion or on the application of either party, appoint any other place or time for the trial, and notice of such appointment shall be given to the parties in manner aforesaid.

120. The action being called on at the time of trial, if neither party appears, the Court shall order it to be struck out, but may order it to be reinstated on good cause being shown by either party, and subject to such terms as the Court thinks just.

121. If the plaintiff appears and the defendant does not appear, the plaintiff shall prove his cause of action so far as the burden of proof lies on him.

122. If the defendant appears but the plaintiff does not appear, the defendant, if he does not admit the claim, shall be entitled to judgment dismissing the action.

123. Any judgment obtained where one party does not appear at the trial may be set aside or varied by the Court upon such terms as may seem fit, on application within five days after the trial.

124. The plaintiff in any action may at any time before judgment has been given elect to be nonsuited, and the Court may nonsuit the plaintiff without his consent. After a nonsuit the plaintiff shall not

be debarred from proceeding again to trial on the same statement of claim, all the costs of the first trial having been first paid, and the Judge of the Court on the application of the plaintiff may fix a time and place for such trial.

125. Where the plaintiff fails to prosecute his action or any part thereof to hearing, the defendant may move to dismiss the action, and the Court may on such motion make such order as may be just.

#### NOTICE TO PARTIES AGAINST WHOM INDEMNITY IS CLAIMED.

126. If in any action the defendant claims that if compensation is recovered from him he will be entitled under section thirteen or section forty-four of the Act or under any policy of insurance to indemnity against any person not a party to the action, he may file with the Clerk of Awards of the industrial district in which the action has been commenced a notice of his claim in the Form No. 10 in the Schedule hereto.

127. The Clerk of Awards shall seal a duplicate of such notice and deliver it to the defendant, who shall serve the same, together with a copy of the statement of claim in the action, upon the person against whom the claim of indemnity is made.

128. Every such notice shall be served in the same manner as a writ of summons.

129. The defendant shall, either in such notice or in a subsequent notice similarly served by him upon the same person, inform him of the time and place appointed for the trial of the action.

130. If any person so served with a notice (hereinafter called the third party) desires to dispute the plaintiff's claim as against the defendant on whose behalf the notice has been given, he must appear before the Court at the trial of the action; and in default of his so doing he shall be deemed to admit the validity of any judgment or order made against the defendant as to any matter which the Court has jurisdiction to decide in the action as between the plaintiff and defendant, whether such judgment or order is made by consent or otherwise. If the third party desires to rely on any grounds of defence, as between the plaintiff and defendant, other than those set out in the defendant's statement of defence (if any), he must file with the Clerk of Awards and serve upon the plaintiff and defendant a statement of defence setting out the grounds on which he so desires to rely. Such statement must be filed and served within fourteen days after the service of the notice of claim upon the third party, or if the interval before the trial is less than fourteen days, then as soon as practicable after such service and before the trial.

131. If it appears to the Court at the trial that the notice of claim has not been served on the third party in time to enable him to appear at the trial on the day appointed therefor, or that for any other sufficient cause the third party is unable so to appear, the Court may either

adjourn the trial on such terms as to costs or otherwise as may be just, or may dismiss the third party from the action and proceed with the trial as if no such notice had been issued or served.

132. If the third party appears at the trial the Court may, if it appears desirable so to do, give him leave to resist the claim of the plaintiff against the defendant, upon such terms as may be just, or to take such part in the action as may be just, and generally may give such directions in the matter as the Court thinks fit; but the third party shall not be permitted, without the leave of the Court granted on special grounds, to raise any defence which has not been set out in a statement of defence filed either by himself or by the defendant in accordance with these Rules.

133. Nothing in the foregoing rules as to third parties shall empower the Court to decide (otherwise than by consent) any question as to the liability of the third party to indemnify the defendant; but whether the third party has appeared at the trial or not, the Court may order that he shall not be entitled in any future proceedings between the defendant and such third party in any Court to dispute the validity of the judgment given in the action between the plaintiff and defendant as to any matter which the Court of Arbitration has jurisdiction to determine as between the plaintiff and defendant.

134. The Court may decide all questions as to costs as between a third party and other parties to the action, and may order any one or more to pay the costs of any other or others, or give such directions as to costs as the justice of the case may require.

135. Where a defendant claims to be entitled to indemnity against any other defendant, a like notice may be issued, and the like procedure shall thereupon be adopted for the determination of questions between the defendants as might be issued and adopted against such other defendant if such last-mentioned defendant were a third party; but nothing in this rule shall prejudice the rights of the plaintiff against any defendant.

136. Where any employer claims under subsection five of section ten of the Act to be entitled to contribution from any other employer he may bring in such other employer as a third party in accordance with Rules 126 to 135, and the provisions of those rules shall with the necessary modifications apply to any such claim to contribution in the same manner as they apply to claims to indemnity. In any such case the Court may, in addition to any powers conferred upon it by the above-mentioned rules, determine the liability of the third party to make contribution to the defendant, and may make an order against the third party for payment of the contribution so determined.

#### ENFORCEMENT OF JUDGMENTS AND ORDERS.

137. When and as often as any sum of money becomes due and owing under any judgment or order of the Court or of the Judge thereof, the Clerk of Awards of the industrial district in which the action or



other proceeding has been commenced shall, on application made to him by the creditor to whom the sum is payable, and on being satisfied by affidavit that the sum is unpaid, issue under the seal of the Court a certificate in the Form No. 11 in the Schedule hereto, and such certificate may be filed by the said creditor in the Supreme Court or in any Magistrate's Court.

138. Two or more certificates may be so issued and filed at the same time or at different times in different Courts in respect of the same sum of money.

139. When a certificate has been so filed in any Court, the amount specified therein shall be deemed to be due by the debtor to the creditor under a judgment of that Court, given on the day of the filing of the certificate, in an action for the recovery of a debt, and payment thereof may be enforced in all respects accordingly.

140. Such a certificate may be filed in a Magistrate's Court, and shall have full force and effect according to the tenor thereof, although the sum specified therein may exceed the jurisdiction of that Court.

141. If after the filing of any such certificate the judgment or order of the Court of Arbitration or of the Judge thereof in respect of which the certificate was issued is varied or set aside by any subsequent order of that Court or Judge, the certificate shall remain enforceable only so far as it is consistent with such subsequent order.

#### MOTIONS.

142. Every application to the Court or to the Judge thereof, whether made in the course of an action or without action, other than an application made on the trial of an action or on the hearing of a motion, shall be made by motion in accordance with the following rules.

143. A notice in writing of the intended motion in the Form No. 12 in the Schedule hereto shall be delivered in duplicate to the Clerk of Awards. If the motion is made in an action the notice shall be delivered to the Clerk of Awards of the industrial district in which the writ of summons was issued. If the motion is made otherwise than in an action, the notice shall be delivered to the Clerk of Awards of the industrial district in which the same proceeding, if it were an action, would be commenced in accordance with the foregoing rules in that behalf.

144. Except where the motion is made by the plaintiff or defendant in an action, the notice of motion shall have subscribed thereon a memorandum stating whether it is filed by the applicant in person or by a solicitor on his behalf, and also stating the applicant's address for service, which shall not be more than three miles from the office of the Clerk of Awards in which the notice of motion is filed.

145. On the delivery of the notice of motion the Clerk of Awards shall send one of the copies thereof to the Judge of the Court, who shall thereupon appoint a time and place for the hearing of the motion, and shall notify the Clerk of Awards accordingly.

146. The place to be so appointed may be either in the industrial district in which the notice of motion has been filed or elsewhere, as the Judge thinks fit, having regard to all the circumstances of the case.

147. The Clerk of Awards shall thereupon send notice to the applicant in the Form No. 9 in the Schedule hereto of the time and place so appointed.

148. As soon as practicable after the receipt of notice of the time and place so appointed for the hearing of the motion the applicant shall, except where applications *ex parte* are authorised by these Rules, serve a copy of the notice of motion, together with a notice of the time and place so appointed, upon the person against whom the order is sought and upon any other persons interested in the matter of the application. When the motion is made in an action, any such notice may be served upon a party to the action in manner indicated by Rules 179 to 181. In any other case the notice shall be served in the same manner as a writ of summons, or in such other manner as the Judge of the Court may direct.

149. On any application the Court or the Judge thereof may make an order although service of notice of motion has not been effected in accordance with the last preceding rule, if the Court or Judge is satisfied that—

- (a.) Such service is not reasonably practicable ; or that
- (b.) Reasonable efforts have been made to effect such service ; or that
- (c.) The delay caused by proceeding in the ordinary way would or might cause irreparable injury ; or that
- (d.) The motion appears to affect the applicant only, or is such that the interests of the person not served will not be affected by want of service.

150. Any person against whom an order has been made *ex parte* under the last preceding rule may at any time move to rescind the order.

151. If on the hearing of a motion the Court or the Judge, as the case may be, is of opinion that any person on whom notice has not been served ought to have or have had such notice, the Court or Judge may either dismiss the motion or adjourn the hearing thereof in order that such notice may be served, upon such terms (if any) as are thought just.

152. Where by these Rules or by the Act time is limited for making any application, the application shall be deemed to have been made in time if notice of motion has been delivered to the Clerk of Awards within the time so limited.

153. At any time before the day appointed by the Judge in pursuance of the foregoing rules for the hearing of a motion, the Judge may, on or without the application *ex parte* of any person interested, appoint a different time or place for the hearing thereof, and shall

thereupon notify the Clerk of Awards of the appointment so made. The Clerk of Awards shall thereupon send to the original applicant notice of the day and place so appointed, and such applicant shall forthwith give notice thereof to all persons entitled to notice of the motion. All notices under this rule shall be given or served in manner provided by these Rules in respect of the original appointment of a time and place by the Judge of the Court.

154. Notices of motion shall state precisely the grounds on which it is intended to move, but the Court or the Judge may make an order on any other grounds if it seems expedient so to do.

155. All the provisions hereinbefore contained as to the taking of evidence, whether by affidavit or otherwise, and as to the summoning of witnesses on the trial of an action shall so far as applicable extend and apply with the necessary modifications to the hearing of a motion, save that on the hearing of a motion evidence may be given by affidavit unless the Court or the Judge otherwise directs.

156. If the Court or the Judge thinks fit, an application *ex parte* may be heard and an order may be made thereon, without the appearance of the applicant.

#### PROCEEDINGS AGAINST THE CROWN.

157. Save so far as provided by the succeeding rules, the provisions of Part II of "The Crown Suits Act, 1908," shall have no application to proceedings against the Crown in the Court of Arbitration for or in respect of compensation under "The Workers' Compensation Act, 1908."

158. Where any person has a claim against the Crown enforceable in the Court of Arbitration for or in respect of compensation under the Act, he may set forth in a petition in the Form No. 13 in the Schedule hereto the particulars of his claim in the same manner as nearly as may be as in a statement of claim filed in an action in accordance with the foregoing rules.

159. The petition may be filed with the Clerk of Awards of any industrial district in order that the Court may proceed to hear and determine the same as hereinafter provided.

160. The filing of the petition shall be the commencement of the suit.

161. At the foot of the petition there shall be subscribed a memorandum stating whether it has been filed by the petitioner in person or by a solicitor on his behalf.

162. The memorandum shall also state the petitioner's address for service in the same manner and subject to the same provisions as in the case of a writ of summons.

163. A copy of the petition, under the seal of the Court, shall be delivered by the petitioner at the office of the Solicitor-General, and such delivery shall be equivalent to service of the writ and statement of claim in an ordinary action.

164. The Attorney-General or Solicitor-General, or some solicitor appointed by the Attorney-General for this purpose, may file with the Clerk of Awards of the industrial district in which the suit has been commenced a statement of defence to such petition, in the Form No. 14 in the Schedule hereto, at any time within fourteen days after delivery of a copy of the petition at the office of the Solicitor-General as aforesaid, or within such further time as the Court or the Judge thereof may allow.

165. The statement of defence shall have subscribed thereto a memorandum stating by whom it has been filed, and also stating an address for service, which shall be not more than three miles from the office of the Clerk of Awards in which the petition has been filed.

166. Save so far as herein or in the Act expressly provided, the procedure in any suit so instituted by petition shall be the same in all respects as in an ordinary action between private persons under the Act and these Rules.

167. The Court or the Judge thereof, as the case may be, shall give the same judgment or orders in any such suit as would be given in an action between subject and subject, and the costs of suit may be allowed on either side as in ordinary cases between other suitors.

168. When any judgment or order is made in any such suit for the payment of money by the Crown, the Registrar of the Court shall give to the petitioner under the seal of the Court a certificate setting forth the purport of such judgment or order, but no certificate shall be issued and filed in any other Court under Rule 137 hereof in respect of any judgment or order so given or made against the Crown.

#### COSTS.

169. When an order has been made under section thirty-seven of the Act allowing costs to the solicitor of any client who is entitled to compensation, the Judge of the Court may by the same or any subsequent order direct that the solicitor shall be entitled to a lien for those costs on the amount so payable as compensation, and that he shall be entitled to deduct the costs from that amount in such manner and by such instalments (if any) as the Judge thinks fit.

170. On any such order being made, the person liable to pay the compensation shall on demand pay to the solicitor the amount to which he is entitled in pursuance of the order, but so that such person shall not be liable to pay any amount in excess of that which he is liable to pay for compensation, or to pay such amount by any greater instalments than those by which he is liable to pay such compensation.

171. If the person liable to pay the compensation fails to pay any amount which he is so liable to pay to the solicitor, the amount may be recovered from him by the solicitor as a debt in any Court of competent jurisdiction.

172. Any payment so made to a solicitor by the person liable to pay the compensation shall be a valid discharge to him as against the person entitled to the compensation to the extent of the amount so paid.

173. When the amount of the compensation or any part thereof has been paid into Court the Judge may order that any costs to which the solicitor is so entitled shall be paid to him out of the sum so paid into Court.

174. When any costs are awarded against any person to whom compensation is or becomes payable by the person entitled to those costs, the Court or the Judge thereof may order that those costs shall be set off against the compensation so payable, and shall be deducted therefrom in such manner and at such time or times as the Court or the Judge thinks fit.

175. The Court or the Judge thereof may in any proceeding order the whole or any part of the costs of that proceeding to be paid by any party thereto, even though that party is successful in the proceeding.

176. Where in pursuance of the Act or these Rules the Court or the Judge thereof makes an order for the payment of costs, the amount of the costs so awarded shall be ascertained and stated in the order.

177. If any action is brought or application made which the Court or the Judge thereof, as the case may be, has no jurisdiction to try or allow, the Court or Judge shall order the action or application to be dismissed, but may award costs in the same manner as if jurisdiction had existed.

#### SERVICE.

178. In cases where personal service is not required, and where no other provision is made in these Rules, all notices and documents required to be served on any person shall be served in manner provided by the following six rules.

179. Where the person to be served sues or defends by a solicitor or is represented by a solicitor, they shall be delivered to or left for the solicitor at his address for service (if any), or in cases where there is no address for service, at his office or place of business.

180. Where the person to be served sues or defends in person or is not represented by a solicitor, they shall be delivered to him or left for him at his address for service (if any), or in cases where there is no address for service, at his residence with his wife or a domestic servant, or any person whose business it is or who has authority from him to receive messages and convey or forward them to him.

181. Where such service is impracticable, the Judge of the Court may, on affidavit showing the circumstances of the case and the necessity, give special directions as to service or publication in lieu thereof.

182. Where any document is to be filed with or delivered to the Clerk of Awards under these Rules, that document may be so filed or delivered by leaving it at the office of the Clerk of Awards or by sending it by post addressed to the Clerk of Awards at his office.

183. Where any document is under these Rules to be sent to any person by the Clerk of Awards, the document may be served in manner provided by Rules 179 to 181. or may be sent by post, addressed to that person or his solicitor at any place at which the document might be left or delivered in accordance with those rules.

184. Where a document is served by post it shall, unless the contrary is proved, be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in proving the service of the document it shall be sufficient to prove that it was properly addressed and posted.

#### MISCELLANEOUS.

185. Where an action is brought for the recovery of compensation for the death of a worker the Court may, in the judgment in that action or in any subsequent order made on the application of the plaintiff or any dependant or person claiming to be a dependant, allot the compensation among the dependants of the deceased, although those dependants are not parties to the proceedings; but the Court may in any such case before making such allotment require notice of the proceedings to be given to any dependant or to any person claiming to be a dependant.

186. Where an application is made to the Court under section thirty-five of the Act for the allotment of compensation among the dependants of a deceased worker, or under section twenty-eight or section thirty-three of the Act for the variation or setting-aside of an order with respect to dependants, the Court may make an order accordingly, although the dependants are not parties to the application; but the Court may in any such case before making the order require notice of the application to be given to any dependant or to any person claiming to be a dependant.

187. Every judgment or order given or made by the Court or the Judge thereof shall be prepared and settled by the Registrar of the Court, and shall be signed by the Judge, and shall bear the seal of the Court, and shall be filed with the Clerk of Awards of the industrial district in which the action or other proceeding was instituted.

188. The Judge of the Court shall have power at any time to correct any clerical error or omission in any judgment or order of the Court or the Judge thereof.

189. The Court or the Judge thereof shall have power either before, at, or after the trial of any action, or the hearing of any application, to amend or waive all defects and errors in the proceedings, whether there is anything in writing to amend by or not, and whether the defect or error is that of the party applying to amend or not.

190. All such amendments shall be made with or without costs and on such terms as the Court or the Judge thinks fit, and all amendments shall be made that may be necessary for the purposes of determining the real controversy between the parties.

191. The Court or the Judge thereof shall have power to enlarge or abridge the time appointed by these Rules or fixed by any order enlarging time for doing any act or taking any proceeding, on such terms (if any) as the justice of the case may require; and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

192. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the office of the Clerk of Awards is closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which that office is next open.

193. The presence of the Judge and at least one other member shall be necessary to constitute a sitting of the Court; and the decision of a majority of the members present at a sitting of the Court, or if the members present are equally divided in opinion, then the decision of the Judge shall be the decision of the Court.

194. On the hearing of any application by the Judge of the Court he may adjourn the hearing thereof to such place and time as he thinks fit.

195. If at the time and place fixed for the hearing of any application by the Judge of the Court the Judge is not present, the hearing of the application may be adjourned by the Registrar of the Court or by the Clerk of Awards to such place and time as he thinks fit.

196. The Court may be adjourned from time to time and from place to place in manner following:—

(a.) By the Court or the Judge at any sitting thereof, or if the Judge is absent from the sitting, then by any other member present, or if no member is present, then by the Clerk of Awards; and

(b.) By the Judge at any time before the time fixed for the sitting.

197. All the powers and jurisdiction vested in the Court or in the Judge thereof by the Act or by these Rules may be exercised in any part of New Zealand.

198. No Court fees shall be payable in respect of any proceedings in the Court of Arbitration under the Act.

199. A party to any action or other proceeding in the Court of Arbitration under the Act may appear in person or by a barrister of the Supreme Court.

200. By leave of the Court or the Judge thereof, as the case may be, any such party may appear—

(a.) By a member of his family:

(b.) By a person in the permanent and exclusive employment of such party.

- (c.) In the case of a company or corporation, by a director or by the secretary or any other officer, or the attorney thereof, or by any person in the permanent and exclusive employment of the company or corporation.

201. No person other than a barrister or solicitor of the Supreme Court shall be entitled to have or recover any fee or reward for acting or appearing for any person in any action or other proceeding in the Court under the Act.

202. An action shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties if the cause of action survives or continues, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*; and in any such case the Court or the Judge thereof may order any such change of parties as is necessary or advisable for the complete settlement of all the questions involved in the action.

203. Where the Court or the Judge thereof has power under the Act or these Rules to make any order on application made for that purpose, the application may, in the absence of anything to the contrary in the Act or Rules, be made by any person interested, whether directly or indirectly, in the order applied for, and whether or not he is a party to the action (if any) in which the application is made.

204. Application to the Judge of the Court under section fifty-eight of the Act may be made by any person interested by filing in the office of any Clerk of Awards a copy of the scheme for compensation, together with an application in writing for the certificate of the Court.

205. A certificate granted by a Judge of the Supreme Court under section forty-six of the Act may be in the Form No. 15 in the Schedule hereto, and shall be delivered to the Clerk of Awards of such industrial district as the said Judge directs.

206. Sections one hundred and fourteen to one hundred and nineteen of "The Industrial Conciliation and Arbitration Act, 1908," shall extend and apply to proceedings before the Court or the Judge thereof under "The Workers' Compensation Act, 1908," in the same manner as to proceedings before the Court under the first-mentioned Act. Except so far as a contrary intention is expressed or implied in "The Workers' Compensation Act, 1908," or in these Rules, the remaining provisions of "The Industrial Conciliation and Arbitration Act, 1908," and its amendments, and of the regulations for the time being in force thereunder with respect to the procedure of the Court, shall have no application to proceedings in the Court under "The Workers' Compensation Act, 1908."

207. Where the forms in the Schedule hereto are directed or authorised to be used, such variations may be made therein as the circumstances of any particular case require.



208. All statements of claim and of defence, judgments, orders, notices, and summonses in an action or other proceeding shall be properly intituled in the Form No. 1 or in the Form No. 2 in the Schedule hereto.

209. All moneys paid to the Public Trustee under section thirty-one of the Act shall form part of the common fund under "The Public Trust Office Act, 1908," and shall be invested and dealt with accordingly, subject, however, to any order made from time to time by the Court in that behalf.

210. The following fees shall be payable to medical referees out of moneys appropriated by Parliament for that purpose under section fifty-two of the Act :—

(a.) For a report under subsection two of the said section (including any medical examination), one guinea.

(b.) For an examination ordered by the Court under subsection three of the same section, one guinea.

211. If the Court is of opinion that in any particular case the foregoing remuneration is insufficient, the remuneration may be increased to such sum not exceeding four guineas as the Court thinks fit.

212. A certificate of all sums to which any medical referee is entitled under the foregoing rules shall be given to the referee under the hand of the Registrar of the Court or the Clerk of Awards, who shall send a duplicate of every such certificate to the Minister of Labour.

213. When a party to any action or other proceeding applies to the Court for the submission of any matter to a medical referee or for the examination of any person by a medical referee under section fifty-two of the Act, the Court may, if it thinks fit, in granting the application require the applicant to pay into Court by way of Court fees a sum not exceeding the estimated remuneration to which the medical referee will be entitled, and any sum so paid into Court shall be deemed to be part of the costs of the proceeding, and the Court may make any order in respect thereof accordingly.

214. The remuneration of a medical referee for any certificate given by him under subsection four of section fifty-two of the Act (including his remuneration for any examination incidental to such certificate) shall be paid by the employer, and not out of the Consolidated Fund, and shall be such sum as is agreed upon between the employer and the medical referee, not exceeding in any case the sum of two guineas.

215. For the purposes of the Act and these Rules the seal of the Court shall be in the custody of every Clerk of Awards, and may be fixed by a Clerk of Awards to any document required or authorised by these Rules to be sealed with the seal of the Court.

216. Non-compliance with any of these Rules shall not render the proceedings in which such non-compliance has occurred void, unless it is expressly so provided by these Rules ; but such proceedings

may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and on such terms as the Court or the Judge thereof may deem just.

217. If any case arises for which no form of procedure has been provided by these Rules, the Court or the Judge thereof shall dispose of that case as nearly as may be in accordance with any of these Rules which affect any similar case, or if there are no such rules, in such manner as the Court or Judge deems best calculated to promote the ends of justice.

## SCHEDULE.

### FORMS.

#### *No. 1. General Heading for all Written Proceedings in an Action.*

New Zealand.

No. .

In the Court of Arbitration, [Northern] Industrial District.

Between A. B.,

Plaintiff,

and C. D.,

Defendant.

#### *No. 2. General Heading for all Written Proceedings not in an Action.*

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of the Workers' Compensation Act, 1908;

and

In the matter of a claim for compensation against A. B., of . in respect of the death of [or of injuries suffered by] C. D., of .

#### *No. 3. Writ of Summons.*

You are hereby summoned to attend the Court of Arbitration at a time and place to be hereafter appointed by the Judge of that Court in that behalf to answer a claim made by the plaintiff under "The Workers' Compensation Act, 1908" particulars of which are hereunto annexed.

And take notice that unless within fourteen days from but exclusive of the day of the service of this writ you file in the office of the Clerk of Awards at [e.g., Wellington] a statement of your defence to the plaintiff's claim you will not be permitted to defend the action except with the leave of the Court, and the plaintiff may proceed in his action without further notice to you.

Dated at , this day of , 19 .

To the above-named defendant, C.D.

[Seal.]

This writ is sued out by the plaintiff in person [or by , solicitor for the plaintiff], whose address for service is .

(See indorsements on the back of this writ.)

### INDORSEMENTS.

This writ must be served on you within four months from the date thereof or from the date of renewal, if renewed.

If the last day for delivering your statement of defence falls on a Sunday or a day on which the office of the Clerk of Awards is closed, the statement may be delivered on the next succeeding day on which that office is open.

If you confess the plaintiff's claim or any part thereof, you should sign and deliver your confession to the Clerk of Awards before the expiration of the time limited for filing your statement of defence; but you may deliver your confession at any time before the trial, subject to the payment of any further costs which your delay has caused the plaintiff to incur.

Summonses to secure the attendance of witnesses will be issued on application at the office of the Clerk of Awards.

If you duly file your statement of defence, notice of the day and place fixed for the trial of the action will be subsequently given to you by the Clerk of Awards.

The office of the Clerk of Awards is situated at [*e.g.*, the Supreme Court Buildings, Wellington].

#### No. 4. *Warrant to sue or defend.*

I HEREBY authorise you to appear and act as my solicitor in an action brought by me under "The Workers' Compensation Act, 1908," against \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Name : \_\_\_\_\_.

Address : \_\_\_\_\_.

Calling : \_\_\_\_\_.

To \_\_\_\_\_.

#### No. 5. *Affidavit of Service.*

I, \_\_\_\_\_, of \_\_\_\_\_, in the Dominion of New Zealand, make oath and say,—

That I did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, serve the above-named defendant \_\_\_\_\_, with a writ of summons and statement of claim, true copies of which are hereunto annexed and marked A and B, at \_\_\_\_\_, in the Provincial District of \_\_\_\_\_, in New Zealand, by delivering the same personally to the defendant [*or as the case may be*].

#### No. 6. *Admission of Claim.*

THE defendant admits that the plaintiff is entitled to the relief claimed by him [*or state any relief which the defendant admits the plaintiff to be entitled to*].

[*Or, where a weekly sum is claimed by way of compensation.*] The defendant admits his liability to pay compensation in this action, and submits to judgment for the payment by him to the plaintiff of the weekly sum of \_\_\_\_\_ as from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at such times and in such manner as the Court thinks fit.

#### No. 7. *Discontinuance.*

THE plaintiff hereby discontinues this action.

#### No. 8. *Summons of Witness.*

To A. B., of \_\_\_\_\_, and C. D., of \_\_\_\_\_.

TAKE notice that you and each of you are hereby summoned to appear before the Court of Arbitration at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and thereafter from day to day until discharged from attendance, to give evidence in this action on behalf of the plaintiff [*or defendant*].

[*Add, where necessary.*]

And you are also required to have and produce all books, papers, and other documents in your possession, custody, and control in any way relating to the matters in dispute in this action, and in particular the following: [*Stating them*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

E. F.,

Clerk of Awards.

[Seal.]

No. 9. *Notice of Time and Place of Hearing.*

TAKE notice that the trial of this action [or the hearing of this motion] will take place before the Court of Arbitration [or the Judge of the Court of Arbitration] on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the noon at [State place of trial—e.g., *Supreme Court, Wellington*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. [Seal.]  
To \_\_\_\_\_, Clerk of Awards.

No. 10. *Third-party Notice.*

To [Name, address, and calling of third party].

TAKE notice that this action has been brought by the plaintiff against the defendant to recover compensation under the Workers' Compensation Act in respect of [Here state generally the nature of the cause of action]. A copy of the statement of claim in the action is hereunto annexed.

The defendant claims to be indemnified by you against his liability to pay such compensation on the ground that [Here state the ground on which indemnity is claimed].

If you wish to dispute the plaintiff's claim as against the defendant, you must appear before the Court of Arbitration at the trial of this action, and must also file a statement of defence setting forth any ground of defence other than those set out in the statement of defence filed by the defendant.

The action will be tried at [State place, day, and hour appointed for the trial, or, if no appointment has been made before the issue of this notice, add the words "a time and place of which due notice will hereafter be given to you"].

In default of your so appearing you will be deemed to admit the validity of any judgment given in the action.

The plaintiff's address for service is \_\_\_\_\_.

The defendant's address for service is \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature of Defendant, his Solicitor, or Agent.)

No. 11. *Certificate of Clerk of Awards.*

(To be filed in the Supreme Court or Magistrate's Court.)  
New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of "The Workers' Compensation Act, 1908."

I HEREBY certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the Court of Arbitration [or the Judge of the Court of Arbitration] gave judgment [or made an order] for the payment by [State the name, address, and calling of the debtor] to [State the name, address, and calling of the creditor] of the sum of [State the full amount of the judgment or order, with particulars (if any) as to mode of payment—e.g., one pound per week]:

And whereas default has been made in the payment of the said sum:

I hereby certify that there is now due and owing by the said \_\_\_\_\_ to the said \_\_\_\_\_ under the said judgment [or order] the sum of \_\_\_\_\_, particulars of which are hereunder written.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. [Seal of the Court.]

(Signed) A. B.,  
Clerk of Awards.

## THE PARTICULARS ABOVE REFERRED TO.

[Here set out all dates, sums, and other particulars necessary to identify the sum in respect of which the certificate is given.]

No. 12. *Notice of Motion.*

NOTICE is hereby given that application will be made by [*State the name, calling, and address of the applicant, and the character in which he makes the application—e.g., "the plaintiff" or "a dependant of A. B., deceased"*] to the Court of Arbitration [or to His Honour the Judge of the Court of Arbitration], at the time and place specified in the memorandum hereunder written for an order [*Here state the nature of the order to be applied for*].

The grounds on which the application will be made are [*Here set out the grounds of the application*].

(Signed by the Applicant, or his Solicitor, or Agent.)

## MEMORANDUM.

1. It is intended to serve this notice upon [*Here state names, addresses, and callings of persons intended to be served, and the characters in which they are made parties to the application*].

[Or, It is intended to make this application *ex parte*].

2. This notice of motion is filed by the applicant in person [or by solicitor for the applicant], whose address for service is

3. This application will be heard at , on , the day of , 19 , at o'clock in the noon.

[*Time and place of hearing to be filled in after appointment by Judge, and before service of notice.*]

No. 13. *Petition of Right.*

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of "The Workers' Compensation Act, 1908."

The day of , 19 .

To the King's Most Excellent Majesty.

Your faithful subject, A. B., of [*Here state residence and calling of petitioner*], humbly sheweth,—

That [*Here set forth the grounds on which the petitioner claims relief, and the nature of the relief claimed, as in a statement of claim in an ordinary action*].

Your suppliant therefore humbly prays that Your Majesty will be graciously pleased to order that right be done in this matter.

And your suppliant as in duty bound will ever pray.

A. B.,

This petition is filed by the petitioner in person [or by C. D., the solicitor of the petitioner], whose address for service is

No. 14. *Statement of Defence in a Suit against the Crown.*

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

A. B., of [*Address and description*].

v.

The King.

The day of , 19 .

## STATEMENT OF DEFENCE.

C. D., Esquire, Attorney-General, for and on behalf of His Majesty the King, says that, &c. [*as in a statement of defence in an ordinary action*].

## MEMORANDUM.

This statement of defence is filed by , whose address for service is

No. 15. *Certificate to be filed in Court of Arbitration.*

In the Supreme Court of New Zealand,  
District.

Between A. B., of [*Address and description*], plaintiff,  
and

C. D., of [*Address and description*], defendant.

And in the matter of "The Workers' Compensation Act, 1908."

I HEREBY certify that on the            day of           , the above-named plaintiff commenced an action against the above-named defendant [*Here state claim of plaintiff*]:

And that on the trial of the action before me on the            day of            it was determined that the injury in respect of which the plaintiff claimed damages was one for which the defendant was not liable in the action, but that the defendant would have been liable to pay compensation in respect of that injury under the above-mentioned Act:

And that therefore the action was dismissed, but the Court, on the request of the plaintiff, proceeded to assess the compensation which the defendant would have been liable to pay under the said Act:

And that the Court assessed such compensation at the sum of           , and directed [*State directions given as to the payment of compensation and costs, and directions (if any) as to the deductions of costs from compensation, or as to any other matters*].

Dated this            day of           , 19   .

[Seal of the Supreme Court.]

(*Signature of Judge.*)

J. HISLOP,

Acting Clerk of the Executive Council.

[Extract from *New Zealand Gazette*, 7th March, 1907.]

# AMENDED REGULATIONS UNDER "THE WORKERS' DWELLINGS ACT, 1905."

PLUNKET, Governor.

## ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this fifth day of  
March, 1907.

Present:

THE HONOURABLE W. HALL-JONES PRESIDING IN COUNCIL.

WHEREAS by section nineteen of "The Workers' Dwellings Act, 1905" (hereinafter referred to as "the said Act"), it is enacted that the Governor may make such regulations as may be necessary to the effectual carrying-out of the said Act:

Now, therefore, His Excellency the Governor of the Colony of New Zealand, in exercise and pursuance of the power and authority conferred by the said Act, and acting by and with the consent of the

Executive Council of the said colony, doth hereby revoke all existing regulations under the said Act, and doth hereby make the following regulations in lieu thereof, namely :—

## REGULATIONS.

1. In every case where lands are to be disposed of under “ The Workers’ Dwellings Act, 1905 ” (hereinafter referred to as “ the said Act ”), they shall be disposed of by the Land Board of the land district in the manner and upon the terms and conditions hereinafter appearing.

2. All dwellings offered for selection under the Act and these regulations shall be classified as follows :—

- (a.) Those whereof the dwellinghouse contains four rooms, exclusive of offices and outbuildings :
- (b.) Those whereof the dwellinghouse similarly contains five rooms :
- (c.) Those whereof the dwellinghouse similarly contains six or more rooms.

3. Every application for a worker’s dwelling shall be in the form or to the effect set forth in Form A in the Schedule hereto ; and every applicant shall make the declaration therein set forth, and shall indicate in his application the particular class (according to the size of the house) from which he desires to select. Every applicant for a lease shall also make a statement whether or not he desires to acquire the freehold of his worker’s dwelling, and, if he does so desire, a further statement as to which of the “ modes ” specified in section 10 of “ The Workers’ Dwellings Act, 1905,” he desires to employ in so acquiring such freehold.

4. No person shall be capable of applying for or holding any worker’s dwelling if at the date of his application he is directly or indirectly, either by himself or jointly with any other person or persons, the owner in fee-simple, or the tenant or occupier under a lease, of any land anywhere in New Zealand.

5. Before disposing of the dwellings the Land Board shall determine whether or not the applicant is a “ worker ” within the meaning of “ The Workers’ Dwellings Act, 1905.”

6. Each applicant must satisfy the Land Board (whose decision shall be final and conclusive) that he possesses the following qualifications :—

- (1.) That he is a worker as defined by the said Act :
- (2.) That he is not directly or indirectly, either by himself or jointly with any other person or persons, the owner in fee-simple, or the tenant or occupier under a lease, of any land anywhere in New Zealand :
- (3.) That he is in all respects a suitable and deserving person.

7. The Land Board shall have power to require any or every applicant to appear before it in person, and to answer such questions or produce such evidence as the Board may require in regard to his application or any matter connected therewith.

8. If any applicant fails to satisfy the Land Board as to any of the aforesaid qualifications, or to appear for examination when required to do so, and without offering any sufficient explanation or excuse, his application may be cancelled by the Board, provided that in every case the applicant shall be notified in writing of such cancellation.

9. For the purpose of deciding who are approved applicants, preference may be given by the Land Board to applications from married persons, widows, and widowers with families.

10. (1.) No deposit is required with any application, but every successful applicant shall before being admitted to possession make payments as follows:—

(a.) In the case of a weekly tenancy, the amount of one week's rent:

(b.) In the case of a lease, the amount of the first month's rent and 10s. for registration of lease: Provided that the successful applicant may, with the permission of the Land Board, pay the sum of one pound as part of the first month's rent, and undertake to complete the payment within thirty days, together with ten shillings for registration of lease.

(2.) An applicant may indicate in his application his preference for any particular dwelling, but no person shall be allowed to acquire or hold more than one dwelling.

(3.) If there is only one approved applicant in any class he shall be entitled to the choice of any dwelling in the class in which he applies.

11. In the event of there being more than one approved applicant in any class, the Land Board shall determine the order of selection by ballot in the following manner: The name of each applicant, or a marble corresponding to his number on a list of approved applicants, shall be put into a box, and the applicant whose name is first drawn shall have the first choice of all the dwellings in the class of which he applies; the applicant whose name is next drawn shall similarly have his choice of all the remaining available dwellings in the class, and so on in order until all the dwellings in that class are allotted or all the approved applications in that class exhausted, as the case may be. In such case all the applicants shall be duly notified to attend the ballot.

Any applicant, if he so desires, may, either before or at the time of ballot, withdraw his application and have his deposit returned to him in full.

If any applicant shall fail to make his selection immediately his name has been drawn in the ballot, his application shall thereupon become void.

12. Every tenancy of lease shall be dated and deemed to commence on the day on which the applicant is notified that his application is accepted, and the rent shall commence as from that date.



13. The rent of any worker's dwelling disposed of under these regulations shall become due and payable in the following manner:—

(a.) Under a weekly tenancy the rent shall be payable weekly, on the first day of each week during the currency of the tenancy.

(b.) Under a lease for fifty years the rent shall be payable monthly, on the first day of each month, by a payment equal to one-twelfth of the annual rent.

14. The tenant, lessee, or owner of any dwelling shall not dispose of the tenancy, lease, or freehold thereof, either by sale, assignment, lease, sublease, mortgage, or will, nor part with the possession or occupation of the dwelling in any manner, without the consent of the Land Board first had and obtained. The Land Board may refuse to approve of any transfer by sale or assignment if it shall be of the opinion that the amount of consideration-money expressed or intended to be paid in respect of any such dealing is excessive.

15. The tenant, lessee, or owner of any worker's dwelling shall reside in such dwelling continuously from the date of selection or acquisition by transfer or otherwise.

If any tenant, lessee, or owner shall fail to reside continuously in his dwelling in the manner hereinbefore provided, or, upon being notified by the Land Board to do so, shall fail to enter into residence within one month after such notification, the Land Board may direct that the tenancy, lease, or certificate of title, as the case may be, shall be cancelled, and upon such cancellation the dwelling shall thereupon revert to the Crown.

16. The tenant, lessee, or owner shall keep the dwelling occupied by him, including all buildings, fences, and gates, together with all drains, gutters, and channels, and the ground of the allotment, in good order and condition to the satisfaction of the Land Board, fair wear-and-tear, damage by fire, earthquake, or tempest excepted.

17. The tenant, lessee, or owner shall use the building as a private dwellinghouse only for himself and family, and shall not carry on, or permit to be carried on, in or upon any part of such dwelling or premises any offensive trade, business, manufacture, or occupation, nor do nor permit to be done anything which may be a nuisance to the lessor or any occupier in the vicinity.

18. The tenant or lessee of any dwelling shall not remove any fittings from nor alter the construction of the dwelling, or any erections in or about the same, nor make any addition thereto, nor remove any gates, fences, or other fixtures of any kind whatever, without the written consent of the Land Board first had and obtained.

19. The holder of the lease of any dwelling shall, at least once in every year, or as often as may be required, have all chimneys that are in use in or about the dwelling properly swept and cleaned, and shall not allow the same to become choked or fouled.

20. The occupier of any dwelling shall keep all glass windows, doors, locks, fastenings, and other fixtures, fittings, and conveniences in good repair, reasonable wear-and-tear, damage by fire, earthquake, or tempest excepted.

21. The Land Board will, as often as they may deem necessary, paint the exterior of the wooden buildings, including picket fences, and will make all necessary repairs to all walls, ceilings, and roofs of the said buildings.

22. The tenant or lessee of any dwelling shall keep the garden-ground of such dwelling properly tilled and cultivated, and shall not allow noxious weeds of any kind to grow or seed therein, and shall not cut down, destroy, or remove any ornamental or useful trees, shrubs, or plants therefrom, save with the written consent of the Land Board first had and obtained.

23. The tenant or lessee of any dwelling shall, at least once a year throughout the term of his tenancy or lease, and at the proper season of the year, properly cut and trim any live fences growing on the land at the commencement of the tenancy or lease, or subsequently planted thereon.

24. The tenant or lessee shall, whenever necessary, but not less than once a year during the term of his tenancy or lease, properly clean and clear from weeds, and shall at all times during the said term keep open, all creeks, drains, ditches, and watercourses upon the land; and the Land Board, or any Crown Lands Ranger of the land district, or other person appointed by the said Board, shall have the power at any time to enter upon and make through the land any drain that the Board deems necessary, without payment of any compensation to the lessee.

25. The right is reserved to the Crown or to its delegated authority to take and construct water-races and to lay water-pipes over any lands disposed of under the said Act or these regulations without compensation; the rentals of such lands shall be reduced in proportion to the area taken when any such right has been exercised.

26. In any case where the channel of any creek or natural or artificial water-race or watercourse runs on more sections than one, then each lessee on whose land any part of such channel runs shall have the right to the reasonable use and enjoyment of a reasonable proportion of the water that would flow in such channel if it were not stopped or diverted by any other lessee; and, for the purpose of securing such right as between the respective lessees, it is hereby declared that no lessee on whose land any portion of such channel runs shall at any time alter such portion, or stop or divert the water flowing therein, save to such extent as the Land Board deems reasonable, and the decision of the Land Board shall be final and conclusive.

27. The Land Board, or other persons authorised by such Board, shall have the right, at all reasonable times, to inspect each dwelling and view the condition and state of repair thereof.

28. The lessee of any dwelling shall pay all rates, taxes, and assessments levied on or payable in respect of his dwelling during the term of the lease.

29. In the event of the forfeiture or surrender of any tenancy or lease, the tenant or lessee shall be entitled to compensation for the then value, to be determined by an appraiser appointed by the Land Board, of any permanent improvements which, with the consent of the Land Board first obtained, have been effected or added to the dwelling by him during his tenancy or lease, less any moneys that may be due or owing by him either in respect of rent, insurance, rates, or on any other account whatever.

30. If and so often as the tenant or lessee makes default in the due and full payment of any rent under the tenancy or lease, or of any sum payable in respect of insurance or rates as aforesaid, or of any other moneys payable under the tenancy or lease, or the faithful observance or performance of any other of the provisions of these regulations, then and in any such case the Land Board shall call on the tenant or lessee to show cause why his interest therein should not cease and determine, and in the event of the cause shown being unsatisfactory the Land Board shall forfeit the tenancy or lease, subject nevertheless to the provisions of Regulation 29 respecting valuation of improvements; but such forfeiture shall not affect any right or remedy on the part of His Majesty as to recovery of rent in arrear or otherwise, or release the tenant or lessee from any penalty or liability in respect of anything done or omitted to be done by him.

31. If the tenant, lessee, or owner of any dwelling shall commit, or suffer to be committed, upon any such part of such dwelling any nuisance of any kind, or shall be of bad character, or shall permit such dwelling to be frequented by persons of bad character, or shall be convicted of a crime, or shall in any way do or suffer to be done any act or thing which, in the opinion of the Land Board, shall be an annoyance to the lessor or to any other tenant, lessee, owner, or occupier in the vicinity, the Land Board may, by notice in writing served upon such tenant, lessee, or owner, forthwith cancel any such tenancy, lease, or title; and such dwelling shall thereupon revert to the Crown without any right to compensation on account of such cancellation accruing to such tenant, lessee, or owner.

32. Every agreement for a weekly tenancy under the Act shall be in the form or to the effect set forth in Form B in the Schedule hereto, and may contain such additional provisions not inconsistent with "The Workers' Dwellings Act, 1905," or these regulations as, with the approval of the Minister of Labour, the Land Board thinks fit.

33. There shall be payable in respect of every lease or certificate of title under this Act for the preparation and registration thereof a fee of ten shillings, and for the consent and registration of any transfer or other disposition other than mortgage a like fee shall be paid.

In respect of every transfer, mortgage, or other disposition there shall also be paid such stamp duty or registration fees as are prescribed by "The Stamp Act, 1882." "The Land Transfer Act, 1885," and any amendments thereof respectively.

34. Every lease shall be prepared and executed in triplicate by the Commissioner of Crown Lands on behalf of His Majesty the King, and the lessee, in the form or to the effect set forth in Form C in the Schedule hereto, and after such execution shall be registered by the Commissioner under "The Land Transfer Act, 1885," or any Act that may hereafter be passed in lieu thereof, or in like manner, as nearly as may be, *mutatis mutandis*, as a certificate of title is registered, and the lease which is retained in the office of the District Land Registrar shall form a folium of the register-book in such office, and on it all dealings therewith shall be registered; but no fee shall be payable by way of contribution to the assurance fund on the registration of any such lease. Every certificate of title issued in respect of the fee-simple of any dwelling under this Act shall in like manner be registered under "The Land Transfer Act, 1885," and shall be in the form or to the effect set forth in Form D in the Schedule hereto. All dealings with the dwellings comprised in any such lease or certificate of title shall be made in accordance with the provisions of the last-mentioned Acts, and be in all respects subject thereto; but no transfer or other dealing with any lease or title shall be valid unless all the conditions upon which the lease or title was granted have been complied with up to the date of such transfer or other dealing, and the consent of the Land Board thereto shall have been obtained.

35. In respect of every weekly tenancy the memorandum of agreement shall be prepared in duplicate, and such agreement shall be executed in duplicate by the Commissioner of Crown Lands, on behalf of His Majesty the King, and the tenant. One copy of such agreement shall be retained for record in the office of the Commissioner of Crown Lands, and the other copy shall be handed to the tenant.

#### SCHEDULE.

Form A (Reg. 3).

NEW ZEALAND.

(Royal Arms.)

APPLICATION FOR A WORKER'S DWELLING UNDER "THE WORKERS' DWELLINGS ACT, 1905," AND THE REGULATIONS THEREUNDER.

To the Land Board for the Land District of .

I, [Name in full], of [Address and occupation], hereby apply for a worker's dwelling, Class , rooms, situated on Allotment, &c., or Subdivision of the Settlement. And I deposit herewith the sum of £ , being rent of such dwelling.

I declare that this application is made subject to the provisions of "The Workers' Dwellings Act, 1905," and its amendments, and the regulations for the time being in force thereunder.

I declare my preference for dwelling No. . . . ., situated on Allotment No. . . . . of Block . . . . .

I desire [or do not desire] to acquire the freehold of such dwelling, and to do so in Mode . . . . . of section 10 of the said Act.

Dated this . . . . . day of . . . . . 19 . . . . .

Usual signature of applicant : . . . . .

Address : . . . . .

Occupation : . . . . .

#### Declaration.

1. [*Name in full*], of [*Address and occupation*], do solemnly and sincerely declare,—

1. That I am of the age of twenty-one years and upwards.

2. That I am the person who, subject to the provisions of "The Workers' Dwellings Act, 1905," and the regulations made thereunder respectively, am applying for a worker's dwelling of the . . . . . Class, as described in the foregoing application.

3. That I am acquiring such dwelling solely for my own use or benefit (and that of my family), and not directly or indirectly for the use or benefit of any other person or persons whomsoever.

4. That I am employed in manual labour [*or specify other work in which applicant is engaged*], and am not in receipt of more than £200 per annum.

5. That I am not directly or indirectly, either by myself or jointly with any other person or persons, the owner in fee-simple, or the tenant or occupier under a lease, of any land in New Zealand.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1882."

Declared at . . . . . this . . . . . day of . . . . . 19 . . . . ., one thousand nine hundred and . . . . ., before me—

Usual signature : . . . . .

Signature : . . . . .

A Justice of the Peace in and for the Colony of New Zealand [*or as the case may be*].

Received or . . . . ., at . . . . .

. . . . ., Commissioner of Crown Lands.

Form B (Reg. 32).

"The Workers' Dwellings Act, 1905."

#### AGREEMENT TO LEASE.

MEMORANDUM of agreement, made and entered into this . . . . . day of . . . . . 19 . . . . ., between His Majesty King Edward the Seventh (who with his heirs and successors is hereinafter referred to as "the lessor") of the one part and [*Name of lessee in full*], of [*Address*], in the Land District of . . . . ., in the Colony of New Zealand, [*Occupation*] (who with his executors, administrators, and permitted assigns is hereinafter referred to as "the lessee"), of the other part.

1. The said lessor agrees to let to the said lessee, and the said lessee agrees to take, the dwellinghouse with garden and other appurtenances thereto, known as Allotment . . . . ., Class . . . . ., situate and being in the Land District of . . . . ., as the same is delineated upon the plan drawn hereon, and therein coloured red in outline: To hold the same as from the . . . . . day of . . . . . 19 . . . . ., upon a weekly tenancy, subject to the provisions of "The Workers' Dwellings Act, 1905," and the regulations at present in force thereunder, and subject also to the terms and conditions herein set forth, namely:—

2. The rent for the said premises shall be the sum of . . . . . shillings per week, payable weekly, on the first day of each week, at the office of the Receiver of Land Revenue, at . . . . .

The first of such payments having been made, the next to become due and be made on the            day of            next.

3. The lessee shall not, nor will at any time during the said term, assign, underlet, or part with the possession of the said premises hereby demised, or any part thereof, without the consent in writing of the Land Board for the time being of the Land District of            (acting on behalf of the lessor) first had and obtained.

4. The lessee will from time to time during the said term pay unto the lessor the said rent on the days and in the manner aforesaid.

5. With respect to the said premises the lessee will from time to time abide by and conform to all the by-laws and regulations from time to time in force or made or passed by the local authority for the time being intrusted under any Act with the administration of the local affairs in the said district, by whatever name or designation such local authority may now or at any time hereafter be called.

6. The lessee will not during the said term sink any wells or make any excavations in or upon the said premises without the consent in writing of the Land Board first had and obtained.

7. The lessee will not at any time during the said term carry on or permit to be carried on upon the said premises or any part thereof the trade or business of a soap-boiler, tallow-chandler, tanner, slaughterman, meat curer or preserver, or any roisy, noxious, or offensive trade or manufacture of any kind whatever.

8. The lessee will permit the lessor, or any officer or person on his behalf duly authorised as hereinafter provided, from time to time to enter upon the said premises at all reasonable times to view the state and conditions thereof, and upon notice of any defect or want of repair being given to the lessee by any such officer or person aforesaid, or left for him on the premises, the lessee will, within the time specified in such notice, make good any such defect or want of repair.

9. The lessee will reside upon the said premises continuously as from the date of the commencement of the said tenancy.

If and so often as the tenant or lessee makes default in the due and full payment of any rent under the tenancy or lease, or of any sum payable in respect of insurance or rates as aforesaid, or of any other moneys payable under the tenancy or lease, or in the faithful observance or performance of any other of the provisions of these regulations, then and in any such case the Land Board shall call on the tenant or lessee to show cause why his interest therein should not cease and determine, and in the event of the cause shown being unsatisfactory the Land Board shall forfeit the tenancy or lease, subject nevertheless to the provisions of Regulation 29 respecting valuation of improvements: but such forfeiture shall not affect any right or remedy on the part of His Majesty as to recovery of rent in arrear or otherwise, or release the tenant or lessee from any penalty or liability in respect to anything done or omitted to be done by him.

And, lastly, it is hereby declared and agreed that any power of entry or distress granted under these presents or any other power which may arise or be exercisable by law by or on behalf of the lessor from time to time be exercised by the Land Board for the time being for the said land district or by any officer or person whom such Board may from time to time appoint for that purpose.

In witness whereof the Commissioner of Crown Lands for the Land District of            acting on behalf of His Majesty the King, and in pursuance and exercise of every power and authority enabling him in that behalf, hath hereunto set his hand, and these presents have been signed by the lessee, the day and year first above written.

Signed by the said Commissioner of Crown Lands, in the name and on behalf of His Majesty the King, in the presence of            .

A. B.,

Commissioner of Crown Lands.

Signed by the said

in the presence of            .

C. D.,

Lessee.

Form C (Reg. 34).

## LEASE OF WORKERS' DWELLING.

"The Workers' Dwellings Act, 1905."

Land District.

THIS deed, made the                      day of                      , one thousand nine hundred and                      , between His Majesty King Edward the Seventh (who with his heirs and successors is hereinafter referred to as "the lessor") of the one part and [Name of lessee in full], of [Address], in the Land District of                      in the Colony of New Zealand, [Occupation] (who with                      executors, administrators, and permitted assigns is and are hereinafter referred to as "the lessee"), of the other part, witnesseth that, in consideration of the rent hereinafter reserved, and of the covenants, conditions, and agreements herein contained and implied and on the part of the lessee to be paid, observed, and performed, the lessor doth hereby demise and lease unto the lessee all that piece or parcel of land, containing by admeasurement                      acres                      roods                      perches, a little more or less, situate in the Land District of                      and being section numbered                      Block                      as the same is more particularly delineated in the plan drawn hereon, and therein coloured red in outline; together with the buildings thereon and all appurtenances thereto, together also with all ways, rights, easements, and appurtenances to the said land belonging: To hold the said several premises intended to be hereby demised unto the lessee for the term of fifty years, commencing on the first day of                      , one thousand nine hundred and                      , yielding and paying therefor the annual rent of                      (£                      ), payable monthly in advance on the first day of each calendar month during the said term, free from all deductions whatsoever. The first payment of such rent having been made, the next payment to become due and be made on the first day of                      next.

And the lessee doth hereby, for                      heirs, executors, and administrators, covenant with the lessor, his heirs and successors, as follows, namely:—

1. The lessee shall not, nor will at any time during the said term, assign, underlet, or part with the possession of the said land hereby demised, or any part thereof, without the consent in writing of the Land Board for the time being of the Land District of                      (acting on behalf of the lessor) first had and obtained.

2. The lessee will from time to time during the said term pay unto the lessor the said rent on the days and in manner aforesaid, and also will from time to time pay and discharge all rates, taxes, charges, and assessments whatsoever now or hereafter to become payable upon or in respect of the said premises hereby demised or any part thereof.

3. The lessee will during the said term well and sufficiently repair, maintain, and keep the said premises, and all buildings, fences, gates, and erections from time to time placed or built thereon, and also all drains, gullies, and channels, in good and substantial repair and condition, (reasonable wear-and-tear and damage by fire, storm, earthquake, or tempest only excepted). With respect to the said premises, the lessee will from time to time abide by and conform to all the by-laws and regulations from time to time in force or made or passed by the local authority for the time being intrusted under any Act with the administration of the local affairs in the said district, by whatever name or designation such local authority may now or at any time hereafter be called, but hereinafter referred to as "the local authority."

4. The lessee will from time to time construct, maintain, and keep all such privies, ashpits, and other works of a similar character as may be ordered or directed by the said local authority; and in cutting and laying of drains and channels for the conveyance of water or waste material or refuse of any kind, and in maintaining and providing for the sanitary state and condition of the premises hereby demised, will at all times act in accordance with the direction

of the local authority or the requirements of any laws, by-laws, rules, or regulations for the time being in force providing for the sanitary state and condition of the locality in which such land is situated.

5. The lessee will not during the said term sink any wells or make any excavations in or upon the said demised land without the consent in writing of the Land Board first had and obtained.

6. The lessee will not at any time during the said term carry on, or permit to be carried on, on the said land or any part thereof the trade or business of a soap-boiler, tallow-chandler, tanner, slaughterman, meat curer or preserver, or any noisy, noxious, or offensive trade or manufacture of any kind whatever.

7. The lessee will permit the lessor, or any officer or person on his behalf duly authorised as hereinafter provided, from time to time to enter upon the said premises at all reasonable times to view the state and condition thereof; and upon notice of any defect or want of repair being given to the lessee by any such officer or person aforesaid, or left for him on the premises, will, within the time specified in such notice, make good any such defect or want of repair.

8. The lessee will reside upon the said premises continuously as from the date of the commencement of the said term.

9. The lessee will not remove any fittings or fixtures from or alter the construction of the dwellinghouse or buildings upon the said premises, nor make any addition thereto, nor remove any gates, fences, or other structures, without the written consent of the Land Board first had and obtained.

10. The lessee will also keep the garden-ground of such dwelling properly tilled and cultivated, and will not allow noxious weeds of any kind to grow or seed therein, and will not cut down, destroy, or remove any trees, shrubs, or plants from the said premises save with the written consent of the Land Board first had and obtained.

11. The said lessee will at least once a year during the continuance of his tenancy properly cut and trim any live fences on the land, including all such fences as may be planted subsequent to the date hereof, and will also during the said tenancy from time to time, as occasion requires, properly clean and clear from weeds or other obstruction all creeks, drains, ditches, and watercourses upon the said land: Provided that it shall be lawful for the said Land Board, or any person appointed by such Board, at any time to enter upon and make through the said land any drain that the Board deems necessary, and that without payment to the lessee of any compensation in respect thereof.

And it is hereby declared and agreed that if at the termination of his present tenancy the lessee shall have performed all the covenants and conditions of this lease, and shall be desirous of having a renewal of the same for a further period of fifty years, and shall give to the said Board at least one calendar month's notice in writing of such desire, then and in such case the Board may grant to the lessee a new lease of the said premises and land for a further period of fifty years, continuing the same covenants and provisions (including this present provision) as are herein contained: Provided that the rent to be paid during such renewed term shall be fixed by a valuation made by three independent persons, one to be appointed by the Minister of Labour for the time being, one by the lessee, and the third by the two persons so appointed.

If and so often as the tenant or lessee makes default in the due and full payment of any rent under the tenancy or lease, or of any sum payable in respect of insurance or rates as aforesaid, or of any other moneys payable under the tenancy or lease, or in the faithful observance or performance of any other of the provisions of these regulations, then and in any such case the Land Board shall call on the tenant or lessee to show cause why his interest therein should not cease and determine, and in the event of the cause shown being unsatisfactory the Land Board shall forfeit the tenancy or lease, subject nevertheless to the provisions of Regulation 29 respecting valuation of improvements; but such forfeiture shall not affect any right or remedy on the part of His Majesty as to recovery of rent in arrear or otherwise, or release the tenant or lessee from any penalty or liability in respect to anything done or omitted to be done by him.



And, further, it is hereby declared and agreed that any power of entry or distress granted under these presents, or any other power which may arise or be exercisable by law by or on behalf of the lessor, may from time to time be exercised by the Land Board for the time being for the land district, or by any other officer or person whom such Board may from time to time appoint for that purpose.

And, lastly, it is hereby declared that these presents are intended to take effect as a lease under the provisions of "The Workers' Dwellings Act, 1905," and its amendments and the regulations made thereunder, and such Act and regulations shall apply hereto and shall bind the parties hereto as if the same were fully set out herein.

As witness the hands of the said parties the day and year first above written.

Signed by the Commissioner of Crown Lands for the Land District of \_\_\_\_\_, in the name and on behalf of His Majesty the King, in the presence of \_\_\_\_\_

Signed by the said \_\_\_\_\_ in the presence of \_\_\_\_\_

Form D (Reg. 34).

NEW ZEALAND.

(Royal Arms.)

CERTIFICATE OF TITLE UNDER "THE LAND TRANSFER ACT, 1885," AND ITS AMENDMENTS, AND "THE WORKERS' DWELLINGS ACT, 1905," AND REGULATIONS MADE THEREUNDER.

THIS certificate, dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_, under the hand and seal of the District Land Registrar of the Land Registration District of \_\_\_\_\_, being a certificate in lieu of grant under Warrant of His Excellency the Governor, in exercise of the powers enabling him in that behalf, witnesseth that \_\_\_\_\_ is seised of an estate in fee-simple (subject to such reservations, restrictions, encumbrances, liens, and interests as are notified by memorial underwritten or indorsed hereon; subject also to any existing right of the Crown to take and lay off roads under any Act of the General Assembly of New Zealand) in the land hereinafter described, as the same is delineated by the plan drawn hereon, bordered \_\_\_\_\_, be the several admeasurements a little more or less, which said land is in the Warrant expressed to have been originally acquired by \_\_\_\_\_ as from the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_, under \_\_\_\_\_, that is to say: All that parcel of land containing \_\_\_\_\_

This certificate of title is issued subject to the provisions of "The Workers' Dwellings Act, 1905," and its amendments, and to the regulations for the time being in force thereunder, and is subject to cancellation by the District Land Registrar if the registered proprietor for the time being fails to reside on the said land in terms of the said Act and regulations.

(L.S.)

\_\_\_\_\_, District Land Registrar.

ALEX. WILLIS,  
Clerk of the Executive Council.





UNIVERSITY OF CALIFORNIA LIBRARY  
Los Angeles  
This book is DUE

THE LIBRARY  
UNIVERSITY OF CALIFORNIA  
LOS ANGELES

UC SOUTHERN REGIONAL LIBRARY FACILITY



**AA** 000 961 429 8

